

**GUIDE 1**

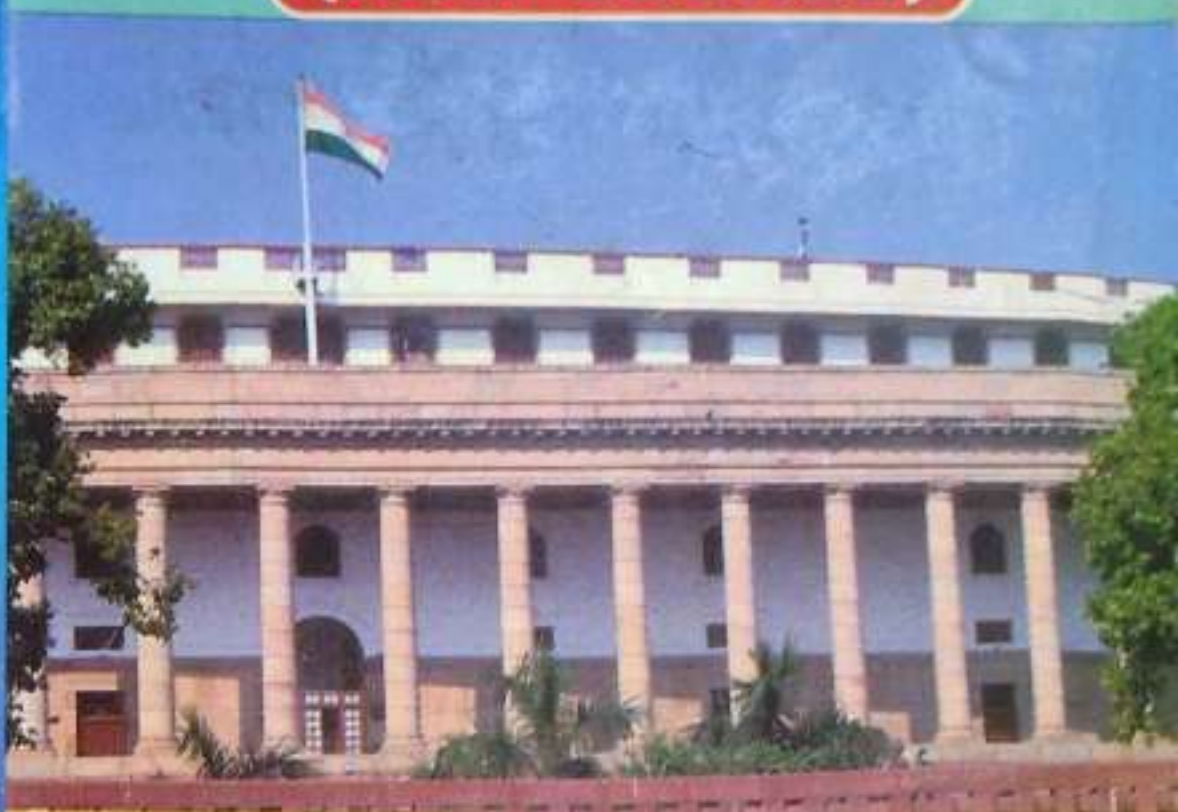
**THREE YEAR DEGREE COURSE**

**B.A. PART - II**

# **GOVERNMENT AND POLITICS IN INDIA**

**Paper-III**

**(NEW COURSE)**



**Calcutta University, Burdwan, Kalyani,  
Vidyasagar & Barasat University**

**General Editors**

**Prof. Sarkar & Mitra**

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**STUDIES IN**  
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**AND**  
**POLITICS IN INDIA**  
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***SHORT QUESTIONS AND ANSWERS***

*General Editors :*

**SARKAR & MITRA**



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**CONTENTS**

**Political Science (General) Third Paper (Government and  
Politics in India)**

Subject	Page
Chapter : 1 Making of the Constitution—The Constituent Assembly	7-10
Composition and Role of the Constituent Assembly	
Chapter : 2 The Preamble and Features of the Constitution	11-18
Preamble of the Indian Constitution of India—Philosophy of the Constitution—Its objectives—Sovereign, Socialist, Secular, Democratic, and Republic—Its ideals—Justice, Liberty, Equality, Fraternity—Significance of Preamble—Various Sources of the Constitution of India—Basic Features of our Constitution—Federalism with strong Unitarianism, Parliamentary political system, Fundamental and Un-fundamental rights, Judicial review, Secular Character of the State etc.	
Chapter : 3 Fundamental Rights, Directive Principles and Fundamental Duties	19-44

Nature and Characteristics of Fundamental Rights—A brief summary  
of Fundamental Rights and their limitations—Nature and extent of the  
Right to Equality—Six freedom in Art. 19—Right to Personal Liberty  
(Protection against arrest and detention—Articles 21-22)—Right to  
Freedom (Articles (19-22)—Right to Freedom of Religion (Articles  
25-28)—Right to constitutional Remedies (Art 32)—Directive Principles  
of State Policy—Nature and Significance—Directive Principles compared  
with Fundamental Rights—Fundamental Duties.



<b>Chapter : 4</b>	<b>Nature of Federalism and Centre-State Relations</b>	<b>45-68</b>
--------------------	--	--------------

Nature of Indian Federation—Principal features of Indian Federalism—Unitary features of Indian Federation—Legislative Relations between the Centre and States in India—Centre-States relations in India—Tension areas (Centre-States conflicts) in Indian federal system.

<b>Chapter : 5</b>	<b>The Union Executive</b>	<b>69-92</b>
--------------------	----------------------------	--------------

Procedure of election and removal of the President of India—Powers and Functions of the President—Emergency Powers of the Indian President—Composition and Functions of the Union Council of Ministers—Principles of Cabinet Government in India—Position and Functions of the Prime Minister in India—Relations between the Union Council of Ministers and Indian Parliament—Vice-President of India—election, removal, powers and functions.

<b>Chapter : 6</b>	<b>The Union Legislature—Parliament of India</b>	<b>93-126</b>
--------------------	--	---------------

Composition of the Indian Parliament—Relations between the Lok Sabha and the Rajya Sabha—Functions of the Union Parliament—Constitutional status of Indian Parliament—Definition of a Public Bill, and its procedure of passing in Union Parliament—Definition of a Money Bill and the process of passing of a Money Bill in Parliament—Committee System in Indian Parliament—Parliamentary control over the system of finances of the Union Government—Powers and position of the Speaker of the Lok Sabha—Composition parts of the Parliament and the role of each in passing of a Bill—Composition and Functions of the Council of States (Rajya Sabha)—Composition and Functions of the House of the People (Lok Sabha)—Privileges and Immunities of the members of Parliament—Position of the Lok Sabha.

<b>Chapter : 7</b>	<b>Government in the States</b>	<b>127-157</b>
--------------------	---------------------------------	----------------

Position and powers of the Governor—Relations between the Governor and His Council of Ministers—Discretionary powers of the Governor—Constitutional position of the Governor in relation to the President of India or the Union Executive—Powers and Position of the

Chief Minister—Organisation and Functions of the Legislative Assembly—Position and Functions of the Speaker of the Legislative Assembly—Composition and Functions of the Legislative Council—Justification of the Legislative Council in a State—Relations between the State Executive and the State Legislature—Privileges and Immunities of the members of the State Legislature—Process of passing of a Public Bill (Ordinary Bill) in the State Legislature—Definition and procedure of passing of Money Bill in the State Legislature—Constitutional position of the State of Jammu and Kashmir—A note on Union Territories in India.

<b>Chapter : 8</b>	<b>The Indian Judiciary</b>	<b>158-168</b>
--------------------	-----------------------------	----------------

Composition and Functions of the Supreme Court in India—Constitutional position of the Supreme Court with special reference to judicial review power—Independence of Judges of the Supreme Court (Constitutional provisions)—Organisation and Functions of a State High Court—Control over the Subordinate Courts—A note on the organisational pattern of the Subordinate Courts.

<b>Chapter : 9</b>	<b>Amendment Procedure of the Constitution</b>	<b>169-172</b>
--------------------	--	----------------

Different processes of amendment of Indian Constitution.

<b>Chapter: 10</b>	<b>Public Service Commissions</b>	<b>173-176</b>
--------------------	-----------------------------------	----------------

Composition and Functions of the Union Public Service Commission—Organisation and Functions of a State Public Service Commission.

<b>Chapter : 11</b>	<b>Election Commission and the Electoral System in India</b>	<b>177-191</b>
---------------------	--	----------------

Composition and Functions of the Election Commission—Nature of electoral trends or voting behaviour—Main features (or elements) of election procedure (process) in India—Major weaknesses of our electoral system, and some reforms introduced—success and Failure (case for and against) of the Universal Adult Franchise.

<b>Chapter : 12</b>	<b>Minorities in India</b>	<b>192-194</b>
---------------------	----------------------------	----------------

Constitutional provisions for the safeguards of the scheduled castes and the scheduled Tribes and their importance.



### Chapter : 13 Party system and Pressure groups in India 195-235

Nature of the party system in India—Main features of the Indian party system—Ideology and Programmes of the Indian National Congress—Ideology and Programmes of the Bharatiya Janata Party—Policies and Programmes of the Communist Party of India (Marxist)—Reasons for the emergence of Regional Parties in India—Nature of different types of regional parties—Regional Party differs from a National Party—Role of regional Parties—Role of opposition in Indian Parliament—Major problems of the Indian party system and the steps to improve the party system—Nature and Characteristics of Pressure groups in India—Types of Pressure groups and their workings—Role of Pressure groups in Indian politics.

### Chapter : 14 Local self-government in West Bengal 236-247

Composition and Functions of the Gram Panchayat—Organisation and Functions of the Panchayat Samiti and the Zilla Parishad—Composition and Functions of the Municipalities in West Bengal—Composition and Functions of the Kolkata Municipal Corporation.

### Chapter : 15 Major Issues in Indian Politics 248-268

Caste Politics—Religion or Secularism—Tribal Politics—Constitutional provisions for other Backward Communities (Mandal Commission)—Regionalism in Indian Politics.

### SHORT QUESTIONS AND ANSWERS 269-300 QUESTIONS PAPER 2010 301-304

## I

### MAKING OF THE CONSTITUTION— THE CONSTITUENT ASSEMBLY

Q. 1. Write a note on the composition and objectives of the Constituent Assembly of India.

Or,

Discuss the role of the Constituent Assembly in framing of Indian Constitution.

Ans. One of the important political events of the present century has been discovered in the formation of a Grand Constituent Assembly to accomplish the historical task of drafting a constitution for free India. The idea of a Constituent Assembly was first implicit in the demand of Swaraj made by the Indian National Congress in its Calcutta Session in 1906. In 1922, Mahatma Gandhi put forward the idea (in Young India) that the future of the country should be determined by the freely chosen representatives of the nation. Again, in the Lucknow Session (1936) of the Congress, the demand for the establishment of a sovereign Constituent Assembly was boldly emphasised. The same demand was further raised by the Provincial Legislatures (under the government of India Act, 1935) where the Congress had a majority. In 1938, Jawaharlal Nehru said :—"The National Congress stands for independence and democratic state. It has proposed that the constitution of Free India must be framed without outside interference, by a Grand Constituent Assembly elected on the basis of adult franchise. As Assembly so elected will represent the people as a whole and will be for more interested in the economic and social problems of the masses than in the petty communal issues which affect small groups." And in 1939, Mahatma Gandhi lent his powerful support to the demand and asserted that such "as Assembly can produce a constitution indigeneous to the country" (Harijan). But the British government did not pay any heed to it.

It was during the second world war and under the stress of International conditions that Sir Stafford Cripps—an important member of Churchill's war cabinet—was sent over to India, but

the Cripps' offer for setting up a body for making the constitution was rejected by the Indian political parties. However, after the second world war, the British Labour Ministry categorically admitted the right of Indians to frame their own constitution. And it was Prime Minister Attlee's initiative which paved the way for the creation of a Constituent Assembly by the recommendations of the Cabinet Mission (May, 1946).

The Proposals of the Cabinet Mission were accepted by the major political parties and they were prepared to join in the elections of the Constituent Assembly with a view to framing the constitution of a free, united and democratic India. And the elections to the Constituent Assembly took place in July, 1946. The members of the Grand Assembly were elected on communal basis indirectly by the Provincial Legislative Assemblies (under the Act of 1935) by the method of proportional representation and single transferable vote. The Constituent Assembly thus created had 389 members in all (Congress 208, Muslim League 73, Princely States 93 and others 15). In this way, many top ranking Congress and Muslim League leaders, eminent jurists, administrators and statesmen drawn from all walks of life were elected to the Grand Constituent Assembly. However, the Constituent Assembly was not a sovereign body. Its authority was limited both in respect of basic principles and procedure by the Cabinet Mission plan. Again, the Muslim League boycotted the Constituent Assembly. Meanwhile the situation in the country deteriorated seriously. Communal riots broke throughout the country and the whole situation culminated in the sad partitioning of the United India by the Mountbatten plan of June, 1947.

With the partition and independence of the country on 14-15 August 1947, the Constituent Assembly (minus the representatives of the Muslim League) could be said to have become free from the fetters of the Cabinet Mission plan, it became a fully sovereign body and the successor to the British Parliament's plenary authority and power in the country.

The Constituent Assembly duly opened on the 9th December, 1946 under the Chairmanship of Dr. Sachidanand Sinha, the eldest member of the Grand Assembly. Two days later (December 11, 1946), Dr. Rajendra Prasad was elected its permanent chairman. It was truly a unique occasion in India's constitutional

history. For Jawaharlal Nehru personally, it was a day of fulfilment, a cherished dream came true. The method which the Constituent Assembly adopted was to lay down first its objectives. This was done in the form of historic Objectives Resolution moved by Nehru on 13th December, 1946. The beautifully worded draft of the Objectives Resolution cast the horoscope of the sovereign Democratic Republic that India was to be. The Resolution envisaged that—all power and authority are to be derived from the people—Units to be given autonomy—citizens to be granted justice, liberty and freedoms and also equality before law—minorities and backward people to be provided with adequate safeguards etc. Thus the Objectives Resolution gave to the Constituent Assembly its guiding principles and the philosophy that was to permeate its tasks of constitution-making and it was finally adopted by the Grand Assembly on January 22, 1947.

On the basis of the Objectives, the Constituent Assembly formed a number of committees to deal with different aspects of the problem of framing the constitution. These included the Union Constitution Committee, the Union Powers Committee and the Committees on Fundamental Rights, Minorities etc. Some of these Committees were headed by either Nehru or Patel to whom the president of the Grand Assembly gave the credit for working out the fundamentals of the constitution. The committees worked hard in a business-like manner and produced valuable reports. After a general discussion of the reports of the said committees, the constituent Assembly appointed a Drafting committee to prepare a Draft constitution under the chairmanship of the eminent lawyer Dr. B. R. Ambedkar on August 29, 1947. The Drafting Committee embodied the decisions of the constituent Assembly with alternative and additional proposals in the form of a Draft Constitution of India and finally discussed its provisions clause by clause. And the Constituent Assembly finally enacted the constitution on November 26, 1949 when the constitution of free and independent India was signed at an impressive ceremony. Some provisions of the constitution like citizenship, elections etc. were brought into operation at once but the rest of the constitution came into force on January 26, 1950. The original constitution (framed by the Constituent Assembly) is a voluminous document containing 395 Articles and 8 Schedules.

Although the Founding-Fathers of our constitution borrowed many of the constitutional provisions from the leading foreign constitutions (England, America, Canada, Ireland etc.), they have tried to make the Indian constitution a document which is most suitable to the Indian conditions and environment. According to Jawaharlal Nehru—"In any event whatever system, of government we may establish here must fit in with the temper of our people and be acceptable to them." We are to note that the Constituent Assembly was a one-party body in an essentially one-party country. The Grand Assembly was the Indian National Congress and the Congress was India.

## 2

## PREAMBLE AND FEATURES OF THE CONSTITUTION

Q. 2. What are the basic philosophical principles underlying the preamble to the Constitution of India ?

Or,

What is a Preamble ? Discuss the nature and objects (or ideals) of the preamble of the constitution of India.

Ans. A Preamble is an introduction to the constitution. It walks before the constitution and tells the source, the objects and contents of the constitution. In *Kesavananda Bharati* case (1973), the Supreme Court ruled that the preamble is an integral part of the constitution. It contains the basic structure or framework of the constitution. Thus the preamble can be amended in the manner provided for amending other parts of the constitution. For example—three new terms Socialist, Secular and Integrity have been added to the original text of the preamble by the 42nd Constitution Amendment Act of 1976. Hence, the Preamble is justifiable. Again, the preamble has great significance. For, it is only in the light of the preamble that the laws of the constitution can be better understood. Moreover, the preamble may be consulted to solve the ambiguity, if any, in the provisions of the constitution. For instance, the expression "Social Justice" embodied in our preamble has enabled the courts to uphold laws protecting the interests of the weaker sections of the society.

The philosophical postulates of the Indian constitution have been laid down in its preamble. It is patterned on the lines of the Objectives Resolution moved by Pandit Nehru in the Constituent Assembly. The preamble resolves to constitute India into Sovereign, Socialist, Secular, Democratic Republic and it professes to secure to all its citizens Justice, Liberty, Equality and Fraternity.

The fundamental ideas or features as enshrined in the Preamble of our constitution are analysed below :

[a] Source of the constitution (Popular Sovereignty)

The Preamble to the Constitution of India begins with the words—"we, the people of India". This expression emphasises three cardinal points : (a) the people of India are the source of



authority and the ultimate sovereignty is vested in them ; (b) the Founding Fathers of our constitution were the real representatives of the people and (c) our constitution is founded on the consent of the people of India. In one word, the constitution of India is enacted by her people and they have given to themselves this constitution.

#### [b] Nature of the Indian Polity

According to the Preamble, India is a sovereign, socialist secular, democratic and republican state.

**Sovereign :** The term "sovereign" implies that India as a nation does not owe allegiance to any internal or external powers. India is independent in her dealings with foreign powers and she enjoys equal status in the world community with other independent nation-states. India continues to be a member of the Common wealth of Nations or the united Nations as a voluntary affair without compromising her sovereignty.

**Socialist :** Seeking to establish a positive social welfare state, the 42nd constitutional Amendment of 1976 has included the word socialist to the Preamble. To the then Congress Government led by Sm. Indira Gandhi, the mere nationalisation of industries does not mean socialism. India has her own brand of socialism. It seems to us that the Government intends to wipe out poverty, increase production, reduce disparities between different classes, or modernise the economy etc.

**Secular :** Also the 42nd constitution Amendment Act (1976) has inserted the word "secular" in the preamble. Our state is secular because it shows equal respect for all religions. That is, the state is wholly detached from religious dogmas and activities and thus neutral in religious matters. This is the reason that the constitution guarantees to every person (citizen or alien) the right freely to profess and propagate religion. Moreover, the state is not allowed to utilise its resources for the propagation of any particular faith or creed.

**Democratic :** India is a "democratic" State. Here the indirect and parliamentary norms of democratic government are practised in the constitutional and political systems of the country. For example, the president of the Indian Union and the Governors of states are the constitutional figureheads. They act on the advice of their council of Ministers responsible to the Lok Sabha and the Vidhan Sabhas respectively and the members of which are

elected on universal adult franchise. Moreover, our constitution confers on the citizens some fundamental rights considered as an essence of India's democratic system. Besides the political concept, its social and economic aspects have also promised the prohibition of social discrimination and economic exploitation on grounds of race, caste religion etc.

**Republic :** The term "Republic" in the Preamble means that supreme power rests in the people and their elected representatives. There is no hereditary element in our republican form of governmental system. Rather we have an elected head of the state e.g., the President. Again the word republic signifies that every office of the state, from the President down to the ordinary service, is open to all citizens irrespective of caste, sex, religion etc.

#### [c] Basic Objects or Ideals of our Republic :

The Preamble states the basic objects or ideals for which the Indian Republic exists. These are : Justice, Liberty, Equality and Fraternity.

**Justice :** Justice has been given a pride of place in the preamble. Our constitution makers have wanted to make the democratic India a welfare state committed to the ideal of socio-economic justice to be obtained in a democratic way by the rule of law. Hence, if political justice is to have any meaning for the masses of India, it is essential that socio-economic justice be achieved. The relevant constitutional provisions are : prohibition of social discrimination, absence of economic inequalities, guarantee of one man, one vote etc.

**Liberty :** The preamble to our constitution lays emphasis on liberty in the positive sense. Citizens enjoy freedom or liberty in the spheres of speech, expression, and thought. Besides a person has freedom to believe in religious tenets of any sect or community.

**Equality :** The Preamble also proclaims its faith in the doctrine of "equality". It speaks of equality of status, that is, equality before the law or equal protection of laws. Again, equality of opportunity is not limited to public services but covers opportunities in all social, political and economic affairs.

**Fraternity :** The ideal of fraternity ensures the dignity of the individual and the unity and integrity of the nation. It has been wished that India, being a unity in the midst of diversity, becomes a nation of different peoples assimilated into a organic whole

by stressing common brotherhood and abolishing untouchability.

The Preamble is the precious part of the constitution. It is at once buoyant and stirring. It is unrivalled both in expression and ideals. Thus the preamble is the soul and basic structure of the constitution. Parliament has no power to amend its framework. In short the preamble is a superb, prose-poem nay, it is perfection in itself. The Constituent Assembly has undoubtedly accomplished a task of tremendous magnitude.

**Q. 3. Explain the various sources of the constitution of the Indian Republic.**

**Ans.** The Indian constitution is a unique document as it embodies the best ideals of the leading constitutions of the world. An attempt has been made to blend the American federal system with the British Parliamentary system. The constitution of India is a final amalgamation of the features of the leading countries which best suited the needs of our country. Among the chief sources of the Indian constitution, the following are the most important :

[1] Government of India Act, 1935 :

Broadly speaking, three-fourth of India's present constitution is based upon the 1935 Act of the British India. It is said, "Both in language and substance, the new constitution is a close copy of the Act of 1935 and its description as a replica of this Act is not correct." The principle of federalism has been borrowed from the Government of India Act of 1935. The Threefold distribution of powers between the union and the states, the President's powers of proclaiming national and constitutional emergencies and the administrative relations between the centre and the states etc. bear close resemblances to the relevant provisions of the 1935 Act. Hence it is usually stated that Indian constitution is rooted in the past.

[2] The Constitution of England :

The constitution of India has borrowed many provisions of the English constitutional system in her governmental machinery. For examples—the President of India is a prototype of the Queen in Great Britain. The Indian Prime Minister like his British counterpart is the key-stone of the cabinet arch. The Cabinet system of India is modelled on the English system of Cabinet government. In our parliamentary democracy, the Lok Sabha is more powerful than the Rajya Sabha, our upper House as is the

case in England. Moreover several of the conventions of the British constitution such as the collective responsibility of the ministry to the lower House and the privileges of its members etc. have been given statutory recognition in the constitution of India.

[3] The constitution of America :

The Founding-Fathers of the Indian constitution have also been greatly influenced by the constitution of the U. S. A. For examples, the fundamental rights incorporated in our constitution are inspired by the constitution of America. The inspiration for federation has been derived from the U. S. A. But our centre is strong as that of the Canadian federation. Our provinces (in British India) are known as states after the American constituent states. The Indian Supreme Court bears the stamp of the Supreme Court of America. The concept of judicial review has been borrowed from the American Supreme Court with a few modifications.

[4] Debates of the Constituent Assembly :

The debates of the Constituent Assembly form the original source of India's Constitution. It is through the proceedings of this Grand Assembly that we can peep into the ideas and feelings of the Constitution makers. Even today our administrators, legislators and the judges refer to the proceedings of the Assembly.

[5] The Former Soviet Constitution :

The constitution of India has enlisted a new chapter (part IV A) on the Fundamental Duties of the citizens which have been borrowed from the Former Soviet Constitution (1936 Stalin Constitution).

[6] The Canadian Constitution :

It is on the Canadian federal system that the federation envisaged in our constitution has a very strong centre and which has made many critics feel that India is over-centralised.

[7] The Constitution of the Irish Republic :

In the Indian constitution, the doctrine of proportional representation and single transferable vote related to the Presidential election and also the directive principles of state policy have been borrowed from the Irish constitution.

[8] The Constitution of the South Africa.

The two methods of amendment of India's Constitution enshrined in Article 368 are similar to those of the constitution of the South Africa.



Although the Founding-Fathers of our constitution have borrowed many of the constitutional provisions from the leading foreign constitutions (England, America, Ireland, Canada etc), they have tried to make the Indian constitution a document which is most suitable to Indian conditions and environment. According to *Pandit Nehru*, "In any event, whatever system of government we may establish in Indian administration must fit in with the temper of our people and be acceptable to them."

**Q. 4.** Explain the fundamental characteristics of the Indian Constitution.

Or,

Describe the basic features of the Constitution of India.

**Ans.** The Constitution of India is the result of the deliberations of the Constituent Assembly, a representative body of the Indian citizens established in 1946 under the Cabinet Mission Plan. The constitution of India has taken many of its distinctive features from the leading Constitutions of the world (e.g. Great Britain—Parliamentary democracy; America—fundamental rights and the concept of judicial review; Canada centralised federation; Ireland—norms of Presidential election and directive principles of state policy etc). It has been pointed out that the constitution of India is not merely a constitution but also a detailed legal code dealing with all important aspects of the constitutional and administrative systems of the country.

The basic features of India's constitution are explained as follows :-

[1] The written constitution of the Indian Republic has come into force on the 26th January, 1950. It is the bulkiest written constitution in the world. At present, it has 405 Articles, 13 Schedules and about 80 Amendment Acts. It is a comprehensive document which contains a detailed description of the legislative, executive and judicial branches of the Union and State Governments. Besides, our constitution enlists matters such as fundamental rights and directive principles, minority's safeguards, elections, citizenship, public service commissions etc. On account of these facts, our constitution has been described as "lawyer's paradise". But the constitution of India has a large number of customs and usages. For examples—selection of the Prime Minister from the Lok Sabha, the impartiality of Speaker's office, resignation of the Ministry due to the lack of confidence of the popular house etc.

[2] India is federal state though the constitution describes it as a "Union of States", the expression taken from the Preamble of the Canadian federal constitution. Our federation is characterised by the dual polity, supremacy of the constitution, the division of powers between the Union and the States and the supremacy of the judiciary, i.e. the Supreme Court with power of judicial review. But the Indian federation has some peculiar features—overriding powers of the Union Government, single citizenship, appointment and dismissal of State Governors by the Union emergency provisions etc. Thus the Indian federation is called the quasi-federal, or the centralised federation.

[3] The Preamble to the constitution declares India as a sovereign, socialist secular, democratic and republic. The two words "socialist" and "secular" have been inserted to the preamble by the 42nd Constitution Amendment Act [1976]. In our democracy, the supreme power rests in the people and their elected representatives. The President, the highest office of the state is elected. The preamble also ensures the ideals of justice, liberty, equality and fraternity to achieve the desired goal. Its object is to reconcile the development of human personality with the welfare of the society.

[4] The constitution of India has adopted many of the principles of the English Parliamentary practice. The President and the Governors are mere constitutional heads. They enjoy formal powers and act on their respective council of Minister responsible to the legislature and responsive to the public opinion. In our parliamentary democracy, one finds the supreme control of the Prime Minister or the Chief Minister and his political colleagues over the administration of the union or State as the case may be.

[5] The Indian Constitution contains a list of fundamental rights (Part III) and fundamental duties (Part IV A). The fundamental rights include the right to equality, the right to freedom, the right to religion, the right to constitutional remedies etc. They are called fundamental because they are justifiable. The rights be enforced if they are violated. Further, 42nd Constitution Amendment Act (1976) has added a new part named as fundamental duties which include duties to abide by the constitution, uphold the sovereignty and integrity of the country, defend the country, promote harmony and the spirit of common brotherhood amongst people etc.



[6] In order to meet with dynamics of an expanding society, the Indian Constitution has been made partly rigid and partly flexible. Article 368 of the constitution deals with the process of its amendment. In all cases, the Constitution Amendment Bill originates only in the Union Parliament. Besides most of the constitution amendment bills (e.g. fundamental rights and directive principles) require the approval of two-thirds majority in Lok Sabha and Rajya Sabha voting separately. Only in cases of amendment of the federal provisions (e.g. election of the President, division of powers between the union and the states of the constitution, the consent of Parliament and half of the State Legislatures is required.

[7] The directive principles are a novel feature of our constitution. They seek to establish social and economic democracy in India. The directive principles act like instruments of instructions which should guide the actions of the Union and the State Governments. Some of the important principles are organisation of the panchayat system, free and compulsory primary education, fair distribution of wealth. It is to be noted that the directive principles are not enforceable in a court of law. They have been described as non-justifiable or unfundamental rights of the citizens. Yet, they are pious wishes and fundamental in the governance of the country.

[8] In Indian Constitution, the Supreme Court possesses the power of judicial review. Our Supreme court is the interpreter and guardian of the constitution. It decides the disputes between several governments and upholds the constitution. The Supreme Court has the power to determine whether or not the acts of the union or state governments are prohibited by the constitution. In Kesavanand Bharati (1973) and Minerva Mills (1980) cases, the supreme court has ruled that even an amendment sought to damage the "basic structure" (federalism, or republicanism, or secularism) of the constitution must be declared null and void.

[9] The constitution of India aims to establish a secular state. Our state is not wedded to any particular religious dogma or creed. It allows equal freedom of faith and worship to all. In short, our constitution guarantees freedom of conscience to all irrespective of their beliefs and practices.

### 3

### FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES, AND FUNDAMENTAL DUTIES

Q. 5. Discuss the nature and characteristics of Fundamental Rights as incorporated in the Constitution of India.

Ans. One of the distinctive features of the Constitution of India is that it guarantees to the citizens some social, political and economic rights. In a democratic state like India, no individual can attain his best self without these rights. These rights are called fundamental because they help to enrich individual personality. The preamble of our constitution also emphasises the dignity of the individual. In the words of *Tilak*, "freedom is man's birth right". The fundamental rights have been described as the conscience of the constitution of India and they constitute the bed-rock of our democracy. It is said that the fundamental rights set out in the constitution itself the most elaborate declaration of human rights yet framed by any state. In our democratic political system, the objects of fundamental rights are to establish a limited government and a government by rule of law where the individual will be free to exercise their freedom. They aim at reconciliation of individual freedom with state authority. The fundamental rights are not absolute and they are to be exercised by the individual for the good of the society. At the same time, the government does not intervene in normal times in those rights. The fundamental rights also serve as a check on legislative despotism. They protect the interests of the minorities and provide a check on democratic rashness of the majority. In India, the fundamental rights ensure the equality of citizens-before law and also profess to secure to them the freedoms of speech, expression, assembly and association. No person can be deprived of his life, or personal liberty except in accordance with law. Minorities are allowed to profess their own religion, and protect their language and culture. Again, the fundamental rights not only protect the individuals and minority groups from arbitrary State-action but also against the control of the private individuals. Thus the fundamental rights aim at creating a society in India in which all citizens can lead a life of freedom

from coercion by the state as well as by the society. We are to note that, in laying down the fundamental rights, our constitution does not follow the British pattern but the American type which is based on the principle of natural justice. Again, unlike in England, but like the U. S. A. the Indian judiciary is also regarded as the protector of the rights of citizens. And lastly, the fundamental rights represent the solemn balance of rights between citizens from various parts of India.

#### Characteristics of Fundamental Rights :

One of the distinctive features of the Constitution of India is the fundamental rights. They are embodied in its Part III and are enforceable by the courts of law. The fundamental characteristics of the basic rights are enumerated below :—

[1] Whereas in some respects, our fundamental rights are in accordance with the rights extended to the people of other countries (e.g. rule of law and freedoms of speech and expression of Anglo-American countries) and in other respects these differ from them as well (e.g. trial by jury in America or trial in camera in Chinese scene). Again, it is true that each right is conditioned by certain duties. However, the courts of law have very little to twist the fundamental rights to suit to their convenience or take shelter of duties, (e.g. not to review the goodness or badness of laws in every case).

[2] The Constitution of India distinguishes the citizens from aliens in matters of enjoyment of fundamental rights. For examples, some of fundamental rights such as freedoms of speech, assembly and association and also equality of opportunity in public employment are available to citizens only. On the otherhand, our basic rights like equality before law and freedom of religion etc. are enjoyed by both the citizens and aliens.

[3] In our constitution, the fundamental rights are elaborate and exhaustive. Part III of Indian constitution contains 23 Articles and enumerates Six such rights guaranteed to the citizens. Some of these Rights are negative in character in as much as they impose restrictions on the sovereignty of the State. These rights include doing away with titles except military or academic distinction on any individual. The negative rights are absolute. But the positive rights enable every citizen to develop his potentialities, abilities and faculties. For example, the right to freedom of religion may

fall in this category. The positive rights are hedged with limitations.

[4] The fundamental rights enshrined in the constitution of India are not absolute but subject to limitations. For example, the right to six freedoms (speech, expression, assembly, union etc.) is subject to reasonable restrictions in public interest, decency etc. The right to life and personal liberty is subject to procedure prescribed by law. They are therefore, not inviolable rights but the legislature by law can reasonably restrict them.

[5] The fundamental rights are comprised not only of the classical basic rights to life and personal liberty but also include some social (abolition of untouchability) and economic (occupation, trade or business) rights. They do not require any positive action on the part of the state to bring them into existence.

[6] Fundamental rights are also a guarantee against specific class of persons or against all persons within the territory of India. For example—*Article 17 forbids* practice of untouchability in any form. Under *Article 23* beggar is forbidden, whereas *Article 24* prohibits employment of children below the age of 14 years in any factory or mine. These are such restrictions which are against private individuals.

[7] Another feature of the fundamental rights is that they are justifiable. That is, all the executive actions or laws passed by our legislatures must be in conformity with our fundamental rights. If any of the laws passed by the executive government is considered against the fundamental rights, the citizens have a right to approach the Supreme Court or the High Courts which have the power of judicial review. If the courts, after examination, are satisfied that a particular law passed by the legislature violates the fundamental rights, that can be declared unconstitutional by the court of law. In *Kesavanand Bharati* (1973) and *Minerva Mills* cases (1980) the Supreme Court has ruled that Parliament has not got unlimited powers to amend the fundamental rights. Parliament cannot change the basic structure (e.g. fundamental rights) of the constitution.

[8] Parliament is empowered to modify the fundamental rights in their application to the members of the Armed Forces or the Forces charged with the maintenance of public order. Further, when the martial law is in operation in any part of India, Parliament can indemnify a government servant for any act done in his official capacity.

[9] During the period of a proclamation of national emergency, the citizens right to freedoms of speech, expression and assembly etc. is suspended and the President by special order can also suspend other rights. Again, the President of India may declare that the right of a citizen to move the Supreme Court for the enforcement of any of his fundamental rights shall be in operative when a proclamation of national emergency is in operation.

Q. 6. Summarise the fundamental rights guaranteed to the citizens by the constitution of India. Are these rights absolute?

Or,

Enumerate the Fundamental Rights mentioned in the Constitution of India.

Ans. One of the distinctive features of the Constitution of India is that it guarantees to the citizens certain social, political and economic rights. In a democratic State, no individual can attain his best self without these rights. These rights are called 'fundamental' because they are necessary for the development of personalities of citizens. These rights cannot be arbitrarily modified by the legislatures. The Supreme Court protects the fundamental rights of citizens.

The fundamental rights as incorporated in the Constitution of India, may be described below :-

[1] Right to Equality : The Constitution of India lays down that all persons are equal before the law. They also enjoy equal protection of laws. It means that the government officials and the private citizens are subject to the ordinary law and to the ordinary courts. Again, the State cannot make any discrimination between the citizens on grounds only of religion, caste, sex, place of birth. The citizens also enjoy equality of opportunity in matters of public employment. The constitution abolishes untouchability. Its practice is forbidden by law. The Constitution also declares that no title, not being a military or academic distinction, shall be conferred by the State. Citizens of India are not entitled to accept honours or titles from a foreign State without the permission of the State.

[2] Right of Freedom : The citizens of India have the right (a) of freedom of speech and expression; (b) to assemble peacefully and without arms; (c) to form association or unions; (d) to

move freely throughout the territory of India; (e) to reside or settle down in any part of India; (f) to practise any profession and to carry on any lawful trade or business.

But these freedoms are subject to limitations. The State can impose reasonable restriction on grounds of security, integrity and sovereignty of India, public order, decency or morality, contempt of court etc.

The Constitution lays down that no person shall be deprived of his life or personal liberty except in accordance with a procedure established by law. This implies immunity from arbitrary action of the executive and also a right to appeal to the higher courts against illegal conviction. The Constitution further declares that no citizen shall be detained without trial. He must be informed of the ground for arrest. He has the right to consult a lawyer of his own choice. He must be produced before the nearest magistrate within 24 hours. A person detained under the Preventive Detention Act has the right to be informed of the charges for which he is detained. He cannot be detained in custody for more two months. If the Government wants to extend the period, it shall refer the matter to an Advisory Body consisting of persons qualified to be appointed as the judges of the High Court.

[3] Right against Exploitation : The Constitution of India prohibits traffic in human beings and forced labour. But the State may impose compulsory service for public purposes such as war, construction of roads etc. The Constitution also lays down that no child below the age of 14 years shall be employed to work in any factory or mine.

[4] Right to Freedom of Religion : In India the State has no religion of its own. The Constitution grants to every person the right of freedom of belief, faith, conscience and worship. Every person has the right to practise, profess and propagate his own religion. Every religious community has the freedom to conduct its religious affairs. Thus India has become a secular state.

[5] Cultural and Educational Rights : The Constitution empowers the citizens of India to preserve their own language and culture. The state cannot make any discrimination on grounds of religion, or language against any citizen seeking admission into any educational institution maintained out of state funds. The religious minorities have the right to establish and administer



educational institutions of their own. The State is not empowered to make any discrimination against any educational institution in matters of giving financial assistance to it.

[6] **Right to Constitutional Remedies** : Every citizen has the right to move the Supreme Court or the High Court for the protection of his rights. And the Supreme Court of the High Court may issue writs in the nature of Habeas Corpus, Mandamus, Prohibition etc., for the enforcement of the fundamental rights of citizens. The Supreme Court can declare an act of legislature unconstitutional, if it abridges or takes away any of the rights conferred by the Constitution of India upon the citizens.

The fundamental rights guaranteed by the Constitution of India are not absolute. No democratic State grants absolute rights to the citizens. Absolute rights are meaningless. The fundamental rights of the citizens of India are subject to certain limitations :

[1] Parliament is empowered to modify the fundamental rights in their application to the members of the Armed Forces.

[2] When martial law is in operation in any part of India, parliament can identify a government servant for any act done in his official capacity.

[3] During the period of a proclamation of national emergency, citizen's rights to freedom of speech and expression, freedom to form associations, freedom to assemble peaceably etc. are suspended.

[4] The President of India may declare that the right to move the Supreme Court or a High Court for the enforcement of the fundamental rights will be inoperative when a proclamation of national emergency is in operation in India.

Q. 7. Discuss the nature and extent of the Right to Equality as guaranteed by the Constitution of India.

Or,

Explain and comment on the Right to Equality recognised in the Indian Constitution.

Ans. Equality is the very basis of democracy. It is described as the essential attribute of democracy. Without equality, no man can develop his inherent qualities. He cannot enjoy a free and happy life. Equality therefore, is said to be manifested in all spheres of human activities. This is the reason that the Right to Equality has been given the first place in the list of Fundamental Rights of the citizens of India.

The Right to Equality mentioned in the preamble is guaranteed under Articles 14, 15, 16, 17, 18 of the Constitution of India. Art. 14 states that the State shall not deny to any person equality before the law or equal protection of laws within the territory of India. In other words, all persons are equal in the eye of law and they are also entitled to enjoy equal protection of laws within the territorial jurisdiction of India.

Apparently it seems to us that there is no difference between the terms "equality before the law" and the equal protection of laws". But in reality, they convey different meanings. Equality before the law is used in the negative sense. It means the absence of special privileges. But the equal protection of laws is a positive concept. It signifies that all persons should be treated equally in similar circumstances. In other words, the State should not make any discrimination between one person and another.

The expression "equality before the law" is taken from Dicey's Theory of Rule of Law. Applying this concept in India, we may say that every person is subject to the ordinary law and to the ordinary courts of the country. But there are certain exceptions. *First* the President of India or the Governor of an Indian State is not accountable to any court of law for exercising his functions. *Secondly* the President or the Governor is not subject to the criminal jurisdiction during his tenure in office.

Equal protection of laws is taken from the Fourteenth Amendment (1864) Act of the U. S. A. Constitution which says that equal protection of laws has been assured to all citizens of the U. S. A. It means that amongst equals the law should be equally administered. In India, the State should not favour any particular person. But the Constitution empowers the legislature to classify persons on the basis of which they may be taxed. The classification must not be arbitrary. It should be reasonable.

Art. 15 of our Constitution deals with prohibition against discrimination. It prohibits the State to make any discrimination against any citizen on grounds only of race, caste, sex, religion, place of birth etc. All citizens irrespective of race, caste, sex etc. are entitled to enjoy equal rights with regard to access to shops, hotels, bathing ghats etc. But the State has the right to make any special provision for women and children and also for the Scheduled Castes and the Scheduled Tribes.

Under Art. 16, all citizens enjoy equality of opportunity in matters of public employment irrespective of their races, castes, religions etc. But there are certain exceptions: (a) Parliament may by law prescribe that residence within the state is required for a particular employment, (b) The State is empowered to reserve certain posts for backward classes of citizens and also for the Scheduled Castes and the Scheduled Tribes, (c) Appointments in connection with a religious organisation may be reserved for persons belonging to that religion.

Art. 17 provides that untouchability is abolished. Its practice is forbidden by the Untouchability (offences) Act of 1955. The Act declares that no one is allowed to make discrimination against any person seeking admission to public institutions like hospitals, schools or colleges on ground of untouchability.

According to Art. 18, the State does not confer any title excepting military or academic distinction. Citizens of India are not allowed to accept any title from a foreign State without the permission of the Government of India. In this conception, it may be pointed out that Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri are not titles in the strict sense of the term. They are mere awards or decorations. The Government of India has declared recently that the holders of Bharat Ratna, Padma Shri etc. are not entitled to use them against their names.

**Comment:** Every citizen of India has the power to move the High Court or the Supreme Court for the protection of the right to equality. And the Supreme Court or the High Court can issue writs in the nature of habeas corpus, mandamus, prohibition etc. for the enforcement of this right. The judiciary has the power to nullify the unconstitutional legislation on the right to equality.

On the other hand, the President is empowered by the Constitution to suspend the right of citizens to move the court for the enforcement of the right to equality during the period of National Emergency.

**Q. 8.** Discuss the six freedoms guaranteed by the constitution of India.

*Or,*

Critically discuss the nature of the six freedoms guaranteed under Article 19 of the Constitution of India.

**Ans.** Freedom has been regarded as one of the important

pillars of democracy. It is essential to the fullest development of the personality of the citizens. The Preamble to the Constitution of India emphasises the freedom of thought and expression. And this has been elaborately discussed under Art. 19 of the Constitution of India. This Article is regarded as the most important article in the chapter on Fundamental Rights because it describes "Six Freedoms" of citizens.

According to Art. 19 (1) of our Constitution, every citizen has the right (a) to freedom of speech and expression (b) to assemble peacefully and without arms, (c) to form unions or association, (d) to move freely throughout the territory of India, (e) to reside or settle down in any part of the country, (f) to practise any profession or to carry on any lawful trade or business.

But these freedoms can never be absolute. A democratic State like India cannot grant absolute freedom to her citizens. They are reasonably restricted by the authority of the State in the interests of the community. Hence, it has been said that Art. 19 intends to reconcile individual freedom with the welfare of the people.

A citizen has the right to freedom of speech and expression. In other words, he can express his views and ideas freely through the press or platform. But it may be reasonably limited by the executive on grounds of the security, integrity and sovereignty of India, friendly relations with foreign states, public order, decency or morality, contempt of court etc.

Again, every citizen of India has the freedom to assemble peacefully at public meetings, or to join procession without carrying arms. But this freedom is also subject to reasonable restrictions. The State may impose limitations in the interests of the security, integrity, or sovereignty of India, and public order.

The Constitution of India grants to every citizen the right to form unions, associations, parties etc. in a lawful manner. This is also restricted by the government in the interests of the sovereignty or integrity of India, public order and morality. The government has the power to ban an association or union which acts against the security of India.

A citizen has the right to move freely and to reside and settle in any part of India. Here also, the State is empowered to impose reasonable restriction on the exercise of these freedoms in the interest of the general public or the Scheduled Tribes.

A citizen can lawfully practise and profession or carry on any occupation or trade. This is subject to reasonable restriction which may be imposed by the government in the interests of the general public.

Certain points must be noted in connection with the freedoms of citizens guaranteed under Art. 19. Neither the executive nor the legislature is empowered to say whether the restrictions are reasonable or not. It is left to the Supreme Court to decide the reasonableness of restrictions.

The Supreme Court has held that these restriction must be reasonable that is to say, commensurate with the purpose for which they are laid down (*A. K. Gopalan Vs. the State of Madras*).

The rights to freedom of speech, association, occupation etc., guaranteed in Art. 19, are suspended during the period of national emergency declared by the President of India.

The six freedoms of citizens can be protected from the arbitrary action of the government and not from the private citizens.

**Q. 9.** Explain fully the fundamental rights as regards protection against arrest and detention under the Constitution of India. Is this right an unrestricted one?

Or,

Discuss fully the right to personal liberty under the Constitution of India.

Or,

"No person shall be deprived of his life or personal liberty except according to procedure established by law".—Discuss.

**Ans.** The personal liberty or freedom of citizens is guaranteed by the Constitution of India under Articles 21 and 22.

Art. 21 of the Constitution of India declares that "No person shall be deprived of his life or personal liberty except according to procedure established by law".

It implies immunity from arbitrary action of the executive. The executive cannot interfere with personal freedom of a citizen except by the authority of law. It has also no power to subject any citizen to physical coercion without the laws of Parliament.

Under the Constitution of India, the right to personal freedom of citizens can never be absolute. It is subject to the procedure

established by law. According to U. S. Constitution, no person shall be deprived of his life, liberty or property without "due process of law." The American Supreme Court has the power to review the wisdom of any legislative policy by virtue of the expression, "due process of law." But no such power is given to the Supreme Court of India. Our Supreme Court is to see that laws are in conformity with the provisions of the Constitution. Therefore, if the legislature enacts a law prescribing punishment for an act which seems to be no offence, the Supreme Court is not empowered to declare that law as unconstitutional.

Thus, Art. 21 does not impose limitations on the authority of the legislature. Its object is to prohibit the executive from arbitrarily restricting the personal freedom of citizens. In this respect, the Constitution of India has preferred the supremacy of the legislature to that of the judiciary.

Art. 22 describes in detail the provision of the Constitution relating to the arrest and detention of persons. When a person has been arrested and detained under the ordinary law, he may be entitled to enjoy the following safeguards:

(a) He must be informed of the grounds of his arrest as early as possible.

(b) He must be allowed to consult a lawyer of his own choice with a view to defending himself.

(c) He must be produced before the nearest Magistrate within a period of twenty-four hours. Without his orders, the period of detention may not be extended.

But the safeguards mentioned above are not applicable to person who are declared as enemy aliens of India.

Art. 22 also deals with the Preventive Detention Act. parliament has been empowered by the Constitution to make laws to detain a person without trial for the security of India or any part thereof, for the maintenance of essential services of the community.

When a person is arrested under the Preventive Detention Act, he must be informed of the grounds of his arrest. But the government may not disclose certain facts in the interests of the general public. The arrested person may be allowed to consult a legal practitioner of his own choice. Moreover, he cannot be detained in custody for a period not exceeding two months. If the government wants to extend the period, it shall refer the matter



to an Advisory Board consisting of persons qualified to be appointed as Judges of the High Court of an Indian State.

The law of preventive detention guaranteed by the Constitution of India is undemocratic. It does not exist in U.K. and U. S. A. in normal times. It has been pointed out that Art. 22 lays a greater stress on the Preventive Detention Act rather than on the personal liberty of citizens. A person arrested under the Preventive Detention Act is not entitled to enjoy the freedom of speech and expression, association etc., as laid down in Art. 19 of the Constitution.

Q. 10. Explain how far the right to personal freedom has been secured by the Constitution of India. Discuss the question with reference to the limitations imposed on the rights.

Or,

Discuss the right to freedom guaranteed under the Constitution of India.

Ans. Freedom has been regarded as one of the important pillars of democracy. It is essential to the fullest development of the personality of the citizens. The right to freedom of the citizens has been elaborately discussed under Articles 19-22 of the Constitution of India. The said articles intend to reconcile individual freedom with the welfare of the people.

According to Art. 19 of our Constitution, every citizen has the right to (a) freedom of speech and expression, (b) assemble peacefully and without arms, (c) form unions or associations, (d) move freely throughout the territory of India, (e) reside or settle in any part of the country, (f) practise any profession or to carry on any trade or business.

But these freedoms can never be absolute. They are reasonably restricted by the democratic government of India in the interests of the community at large.

A citizen has the right of freedom of speech and expression. In other words, he can express his views and ideas freely through the press and platform. But it may be reasonably limited by the executive on grounds of the security, integrity and sovereignty of India, public order, friendly relations with foreign States etc. Again, every citizen of India has the freedom to assemble peacefully without carrying arms. But this freedom is also subject to reasonable restrictions. The authority of the state may impose limitations in

the interests of the security and sovereignty of India and public order. The Constitution of India also grants to every citizen the right to form unions and associations in a lawful manner. This is also restricted by the government in the interest of sovereignty of India, public order and morality. Further, a citizen has the right to move freely and to reside and settle in any part of India. Here also, the state is empowered to impose restrictions in the interests of the general public or the Scheduled Tribes. Lastly a citizen can lawfully practise any profession, or carry on any occupation or trade. However, the government may impose restrictions in the interests of the general public.

In this connection it may be pointed out that neither the executive nor the legislature is empowered to say whether the restrictions are reasonable or not. It is left to the Supreme Court to decide the reasonableness of restrictions.

Rule of Law finds a place in Art. 20 of the Constitution. No person can be arrested arbitrarily or convicted without observing proper procedure. Nor can he/she be subjected to a penalty greater than what might have been inflicted under the law in force at the time of the commission of the offence. The other legal reliefs available to the individual are that no person can be compelled to be a witness against himself and no person can be prosecuted and punished for the same offence twice.

The personal liberty or freedom of citizens is guaranteed under Articles 21 and 22 of our democratic Constitution. Art. 21 categorically states that no person shall be deprived of his life or personal liberty except according to procedure established by law. It implies immunity from arbitrary action of the executive. The executive cannot interfere with the personal freedom of a citizen except by the authority of law. So, under our Constitution, the right to personal liberty is subject to the procedure established by law. The American Constitution declares that no person shall be deprived of his life, liberty or property with due process of law. The Supreme Court in the U. S. A. can review the wisdom of any legislative policy. But no such power is given to the Indian Supreme Court. Our Supreme Court has to see that laws are made in conformity with the provisions of the Constitution. So, Art. 21 does not restrict the authority of the legislature.

Art. 22 of the Indian Constitution describes, in detail, the

provisions relating to the arrest and detention of persons. When a person has been arrested and detained under the ordinary law, he must be informed of the grounds of his arrest as early as possible. He must be produced before the nearest magistrate within a period of twenty four hours and also allowed to consult a lawyer of his own choice to defend himself. However, these safeguards are not applicable to persons who are for the time being enemy aliens. Again, Art. 22 of our Constitution empowers the Parliament to make laws to detain a person without trial for the security of India or any part thereof for the maintenance of essential services of the community. When a person is arrested under the Preventive Detention Act, he must be informed of the grounds of his arrest. Moreover, the arrested person cannot be detained in custody beyond two months unless an Advisory Body consisting of judges of the High Court has reported before that period that there is sufficient cause for detention. In India the law of preventive detention is undemocratic. Art 22 lays a great stress on the Preventive Detention Act rather than on the personal freedom of citizens.

It may be pointed out that every citizen of India has the power to move the Supreme Court or the High Court for the protection of his/her personal freedom. And the Court can issue writs in the nature of habeas corpus for the enforcement of freedom of citizens. On the other hand, the rights to freedom of speech and expression, association etc. guaranteed in Art. 19 are suspended during the period of National Emergency (Art. 352) declared by the President of India. Besides, when a proclamation of National Emergency is in operation, the President of India may suspend the right of citizens to move the Supreme Court for the enforcement of their personal freedom as laid down in Arts. 21 and 22 of the Constitution.

Q. 11. Explain fully the right to freedom of religion under the constitution of India.

Or,

In what sense India is called a secular state? Discuss in this connection the right to freedom of religion guaranteed by the constitution of India.

Ans. Right to freedom of religion is the sheet anchor of our secular state. But the Indian Constitution does not define

the word "religion". However, the Supreme Court has observed that religion includes not only the philosophical tenets of a religious sect but also the rituals to be followed in a religious institution.

In India, the word "secularism" was borrowed from the U. S. Constitution. Though secularism has been accepted as one of the basic principles of Indian polity, there is no agreed and precise meaning of Indian secularism. Even the Founding Father of our Constitution found it difficult to put forth a precise meaning of the term (secular). Jawaharlal Nehru, the chief exponent of secularism in the Constituent Assembly, regretted the inability in these words. "We call our State a secular one. The word "secular" perhaps is not a happy one. And yet for want of a better word we have used it." A secular India does not mean a country without religion. It only ensures the institutional separation of the state from religion and a balanced approach to all faiths. Hence, by secular state is meant that the state is not going to make any discrimination whatsoever on the ground of religion against any person or community professing any particular form of religious faith and no particular religion in the state will receive any state patronage whatsoever. Rather, the state gives complete toleration to all religions, it adopts a neutral attitude towards all religions, and guarantees complete freedom of worship. Again, the constitution (Forty-second) Amendment Act, 1976 has inserted the word "secular" in the Preamble. Religion is a personal affair. The state is concerned with the relation between man and man and not with the relation between man and god which is a matter for individual conscience.

Articles 25 to 28 of Indian Constitution deal with the right to freedom of religion. These Articles (25-28) highlight the importance which the Fathers of our Constitution attached to the secular character of the Indian state. They also reflect the concern which the Founding Fathers had for protecting the interests of the religious minorities in the country.

#### *Freedom of conscience and Religion (Article 25) :*

The Constitution of India lays down that all persons—not only citizens—are equally entitled to freedom of conscience and the right to freely profess, practise and propagate religion. It means that all persons have the freedom to express their views on their

own religions freely and also propagate their religions. There is not restriction on the freedom of worship in private houses or public temples. However, the State may impose certain restrictions on this freedom : (a) in the interests of public order, morality and health ; (b) to regulate or restrict any economic, political, or secular activities associated with religious practice; and (c) for throwing open of Hindu religious institutions of a public character to all classes of Hindus-Sikhs, Jains and Buddhists. The Supreme Court has held that the right to propagate religion does not include any right to forcible conversions as these may disturb public order.

#### *Freedom to manage Religious Affairs (Article 26) :*

Article 26 deals with the freedom to manage religious affairs. It upholds the following principles : (a) Every religious group has the right to establish and maintain institutions for religious and charitable purposes. For instance—Hindus may establish Temples, Muslims their Mosques, or Christians their Churches, (b) It enjoys complete freedom to manage its own religious affairs, (c) Institutions established for religious purposes have the freedom to own and acquire movable and immovable property. And (d) a religious sect has the right to administer such property in accordance with law.

But the freedom of a religious denomination to manage its own religious affairs is subject to public order, morality or health. Again, the right in *Article 26* is a collective right of a religious denomination. Lastly, the word denomination in Article 26 includes not only Indian citizens, but also aliens.

#### *Freedom not to pay Taxes for religious promotion (Article 27)*

According to *Article 27*, the state will not compel any person to pay taxes for the promotion or maintenance of any particular religion or religious institution. While, however, the state is prohibited for collecting taxes for religious purposes, it may impose fees for services rendered. The supreme court has held that if the state renders some service like improving the management of Muslim wakfs, or the Hindu Endowments, it will be within the right of the state to charge fees. Hence, the state policy of taxation is not guided by religious principles. This is in keeping with the concept of secularism which means equal respect for all religions.

#### *Freedom not to attend Religious Instruction (Article 28) :*

The constitution in *Article 28*, lays down that education under the direction and control of the state is secular and the state does not spend money on imparting religious education. However, it does not apply to institutions established under any endowments or trust. Further, that attendance in the classes held for religious instructions is not compulsory. For instance, the Aligarh Muslim University may give religious instructions in Islam, but such instruction shall be only to those who wish to take it and shall not be on a compulsory basis.

India's claim that she is a secular state is also evident from the following constitutional provisions : (a) The constitution of India prohibits the state to make any discrimination against any person on ground only of his/her religion (*Article 15*). (b) The state is not empowered to deprive a citizen from the equality of opportunity in matters of public employment only on ground of religion (*Article 16*). (c) The state cannot make any discrimination on ground only of religion against any citizen seeking admission into an educational institution maintained out of state funds (*Article 29*). (d) Every religious minority is entitled to set up and maintain its educational institution. The State cannot discriminate against it in matters of giving financial aid only on ground of religion. (*Article 30*). (e) The state cannot deprive a citizen (18 years or above) from the right to vote in the elections to the Lok Sabha and the Vidhan Sabha on ground only of religion (*Article 326*).

The above mentioned provisions of the constitution conclusively prove that India is a secular State. There is no state religion in India. The state will neither establish a religion of its own nor confer any special patronage upon any particular religion. Again, the State does not show discrimination against any religion or favour any religion. Here mention may be made that though the premises of Indian secularism are very clear cut, they are subject to the exigencies of social reform. Every possible care has been taken to protect the interests of the religious minorities. That is, they can propagate their own religion or establish trusts or endowments for the solicitation of their religion. It is however felt that the word "secular" used in the Preamble is very ambiguous and our polity has suffered greatly due to its having not been precisely defined in the constitution. It may, therefore be most



advisable to define the term "secular" through a constitutional amendment.

**Q. 12.** Discuss the nature of the Right to constitutional Remedies for the enforcement of the Fundamental Rights guaranteed by the Constitution of India. When can these Fundamental Rights be suspended?

**Ans.** Fundamental rights guaranteed by the constitution of India are of great value because they are necessary for the fullest development of the personality and inherent qualities of the citizens. Hence, these rights should not be treated as mere paper principles. It should be noted that these rights have no importance unless there are remedies in case of violation of them. Unlike the former U.S.S.R., the fundamental rights of the citizens of India can be enforced through the law-courts.

*Under Article 32* of the constitution of India, every person has the right to move the Supreme Court for safeguarding his rights. And the Supreme Court is empowered to issue writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *certiorari*, and *quo-warrants* for the enforcement of fundamental rights. A person can also move a High Court for the protection of his/her rights under *Article 226* of the Indian constitution. Hence, the supreme court may protect the fundamental rights of citizens against the arbitrary actions of the executive and the legislature. In other words, the Supreme Court is competent to nullify a law of the legislature or an order of the executive if it takes away the fundamental rights of citizens. The constitutional remedies have been correctly described by *Ambedkar* as the heart and soul of the constitution.

Let us now discuss the various writs issued by the Supreme Court for the enforcement of the fundamental rights of citizens.

**Habeas corpus :** It means that no person can be detained for an indefinite period without trial. The writ of *habeas corpus* is usually issued with a view to determining whether the person is legally detained or not. Under it, the arrested person is placed before the court. If the court thinks that the detention is unjust and illegal, the person so detained is released immediately.

**Mandamus :** Mandamus is an important writ. It means a command which can be issued to any public body which has refused to perform its legal duty. Such commands can be issued against the officers engaged in public duties and also the

government itself if they refuse to discharge their functions. The writ of *mandamus* can be issued for the enforcement of fundamental rights for other purposes also. But it cannot be issued against a private institution.

**Prohibition :** The meaning of prohibition is simple. It is a kind of command by which the Supreme Court (or the High Court) gives direction to an inferior court forbidding it to do certain things which is in excess of its jurisdiction. We are to note that *mandamus* commands activity, *prohibition* commands inactivity. And the writ of *prohibition* is issued against the judicial bodies.

**Certiorari :** The writ of *certiorari* is applied against the judicial and quasi-judicial bodies. It is issued to quash an order or the decisions of the judicial authorities. *Certiorari* can be issued only after the order has been passed. Its object is to secure that the jurisdiction of an inferior court is properly recognised. But it has no right to usurp the jurisdiction. We are to note that the writ of *prohibition* is preventive, whereas the writ of *certiorari* is remedial. However, the two writs are sometimes may overlap.

**Quo-Warrants :** The writ of *quo-warrants* is some sort of an injunction. This writ gives the right to a court to enquire into the legality of the claim which a person asserts to a public office or oust him from that office if his/her claim is not to be well-founded. The judiciary can prevent an unlawful claimant from Usurping a public office.

#### Limitations or Suspension of Fundamental Rights :

The fundamental rights of citizens guaranteed by the constitution of India are not absolute. They are restricted by the authority of the State in many ways. Hence, though the fundamental rights are of great importance, but the citizens do not fully enjoy them. It has been said that the fundamental rights under the constitution of India are fundamental in name only. They are over-ridden by conditions which cut at the root of such rights.

The limitations on the fundamental rights granted to the citizens of India may be described below :

(1) Under the Constitution of India, every citizen has the right to freedom of speech and expression. But the enjoyment of this right may be regulated in the interests of the security, integrity, and sovereignty of India ; public order, morality or decency, contempt of court etc.

(2) The law of preventive detention prohibits a citizen to enjoy the freedoms guaranteed by our constitution. The Preventive Detention Act is an undemocratic feature of our constitution. In the U.K. and the U.S.A, it does not exist in normal times.

(3) A person arrested under the ordinary law is entitled to enjoy certain safeguards. But these are not available to (a) aliens, and (b) the persons arrested under the NSA, ESMA, and POTA.

(4) Parliament is empowered to modify the fundamental rights in their application to the members of the Armed Forces.

(5) When martial law is in operation in any part of India, the Union Parliament can indemnify a government servant for any act done in his official capacity.

(6) During the period of a proclamation of national emergency, the citizens' rights of freedom of speech, expression, association etc. as enumerated in Article 19 of our constitution are automatically suspended.

(7) The President of India may declare that the right of a citizen to move the Supreme Court for the enforcement of his fundamental rights (excluding the right to personal liberty in Article (21) will be inoperative when a proclamation of national emergency is in operation in India.

Q. 13. Summarise the Directive principles of State Policy and indicate their nature and significance in the Constitution of India.

Or,

Distinguish between the nature and character of Fundamental Rights and those of Directive Principles of State Policy.

Or,

Enumerate the "Directive Principles of State Policy". To what extent were they implemented?

Or,

Discuss the nature and importance of "the Directive Principles of State Policy" set forth in our constitution with reference to some of the Principles.

Ans. One of the essential attributes of the Constitution of India is that it provides for Directive Principles of State Policy. The directive Principles have been borrowed from the Constitution of Ireland. The Preamble to the Constitution of India declares that India is a welfare State. Its purpose is to secure to all the

citizens of India-economic, social and political justice. In a democracy, political justice is not enough. Full and real democracy cannot be attained unless political democracy is accompanied by social and economic democracy. This is the reason that the Fathers of the Indian Constitution have enumerated certain Directive Principles in Part IV of the Constitution (Articles 36-51).

In India, the Directive Principles of State Policy are certain aims and ideals which the State must secure to all its citizens. Their object is to promote social justice and economic welfare of the people and to maintain international peace and solidarity. These Directive Principles are certain instructions which the state should pursue both in administration and in legislation. Here, the State means not only the Central Government but also the State Governments and other local authorities within India.

The Directive Principles of State Policy as contained in Arts. 36-51 may be classified into three groups.

[A] Directive Principles enjoining the ideals of the State :

*[i]* The state shall try to promote the welfare of the people by securing a social order in which social, economic and political justice are practised by the national institutions.

*[ii]* The State should direct its policy towards securing that the material resources of the community are so distributed as best subserve the common good.

*[iii]* The state shall try to secure to all workers a decent standard of life, a living wage, full employment of leisure and cultural opportunities etc.

*[iv]* The State shall raise the level of nutrition and the standard of living of its people.

*[v]* The state must promote international peace and security, maintain honourable relations between Nations and encourage settlement of international disputes by arbitration.

[B] Directive Principles determining the executive and legislative policy of State :

This includes *(i)* a uniform civil code throughout the territory of India; *(ii)* free and compulsory education of children upto fourteen years; *(iii)* development of cottage industries in rural areas; *(iv)* prohibition of intoxicating drinks and of drugs except for medical purposes *(v)* organisation of panchayats of rural areas and *(vi)* separation of judiciary from the executive.

[C] *Directive principle laying down the rights of citizens :*

The important rights are : (i) right to work, (ii) right to education, (iii) right to social security, (iv) right against economic exploitation and (v) right to equal pay for equal works.

*Fundamental Rights and Directive Principles of State policy - a comparative study :*

The fundamental Rights of citizens and the Directive of State Policy have been stated in separate parts of the Constitution of India. There are certain points of difference between the Directive Principles and the Fundamental Rights.

[1] The Directive Principles signify certain ideals which the State would always try to pursue. The Fundamental Rights, on the other hand, prohibits the State from doing certain things. Thus, the chapter of Fundamental Rights imposes serious limitations upon the authority of the State. But the chapter on Directive Principles of State Policy gives instructions to the government for the realisation of its aims and objectives.

[2] The fundamental Rights can be enforced in a court of law. According to the provisions of the Constitution (Arts. 32 and 226) the Supreme Court and the High Courts are entitled to issue writs in nature of habeas corpus, mandamus, prohibition etc. for the enforcement of fundamental rights of citizens. But the Directive Principles are not enforced in a court of law. They may be described as non-justifiable rights. A citizen cannot move the court for protection of Directive Principles.

[3] The Fundamental Rights are guaranteed by the Constitution. But the Directive Principles must be implemented by the legislation of Central Government or of the State Governments.

[4] The Supreme Court or the High Court declare a law as unconstitutional, if it takes away any fundamental rights of the citizen. But the Court has no power to declare a law as null and void if it goes against the directive principles.

[5] The Government is bound to fulfil the fundamental rights of citizens. But the government cannot be compelled to carry out the Directive Principles of State Policy. As for example, no one can compel the government to provide for a decent standard of living or for a living wage.

[6] During the period of a proclamation of National Emergency (Art. 352), the fundamental rights of citizen as enumerated in Art.

19 remain suspended. Moreover, the President may by an order declare that the citizens have no constitutional power to move the court for the enforcement of their rights. But the directive principles are not suspended in case of internal disturbance or external aggression.

[7] The Supreme Court has held that if there is a conflict between the fundamental rights and the Directive Principles of State policy, the former will prevail over the latter.

Thus the Directive Principle of State Policy "have to conform to and run as subsidiary to the chapter on Fundamental Rights".

*Utility or Significance of Directive Principles of State Policy :*

There are some critics who opine that the Directive Principles of State Policy enumerated in Part IV of the Indian Constitution have no value and utility. They are meaningless. They are nothing but pious wishes and a manifesto of aims and aspirations. Some say that they are "sublime nonsense". They have no legal sanction. Government can not be forced to implement these principles. The Courts are not bound to enforce them. They would be outdated in the next generation. Hence, these principle should not be incorporated in a written Constitution like India.

But the chapter on Directive Principles of State Policy is not a decorative part of the Constitution of India. They should not be described as mere pious wishes. These principles are of basic significance and of great utility in the working of Indian democracy. The Constitution of India declares that the directive principles are fundamental in the governance of the country. It is true that these principles have no legal status. But they have moral status behind them. The political significance of those principles should not be overlooked. These principles are essential in a democratic State. They try to promote the economic welfare of the people. These principles always remind the Centre and the States of their duties and responsibilities towards the citizens. The Government is always conscious of the welfare of the people. The goodness or badness of the activities of the government depends upon the fulfilment of these directive principles. Moreover, the social economic and political justice of India is also being reflected through these directive principles. Hence, the government shall not try to ignore these principles. If it fails to translate them into



reality, public opinion will definitely go against the government. Public opinion also desires to see that these principles are implemented by the government. Therefore, the real sanction behind the directive principles is the public opinion. All the organs of government should be guided by these principles. It has been beautifully remarked, ".....it cannot be said that directive principles are of no use at all, even though they may not have the binding force of law. Whoever may capture the governmental power, he will have to respect these instruments of instructions which are called Directive Principles. He cannot ignore them. He may not have to answer the breach in a court of law, but he will have to answer for them before the electorate when the next election comes."

In this connection, we are to note that in 1971, Parliament has passed the Constitution (Twenty-fifth Amendment) Act for removing obstacles in making of laws which aim at the implementation of directive principles of State Policy. The said Act provides that the Legislatures—Federal and State can now enact laws for giving effect to the policy of the State towards securing certain principles as defined in Article 39 of the Constitution e.g., distribution of material resources of the community to subserve the common good prevention of concentration of wealth and means of production in a few hands. And such laws cannot be questioned in the courts on the ground that they violate the fundamental rights guaranteed by Articles 14 and 19 of the Constitution.

Since the commencement of the Constitution of India (26th January, 1950) the Government has translate certain directive Principles into reality. These are as follows :

[a] The zamindari system has been abolished in order to wipe out economic inequalities from the society and to establish a welfare State.

[b] The Government has nationalised certain key industries with a view to preventing the concentration of wealth in a few hands.

[c] The standard of living of the people has been substantially raised through the Five-Year Plans.

[d] In several State of India, the primary education has been made free and compulsory.

[e] In almost all States in India, the Panchayati Raj System has been set up rural areas.

[f] In India, the constituent States have separated the judiciary from the executive.

[g] India has become a member of the U. N. O. in international sphere, India's aim is to follow a policy of neutrality and to promote international peace and solidarity among the nations—big and small.

[h] In India, the Khadi and Village Industries Board, the Handloom Board have been set up by the Government of India in order to help the State Governments in matters of marketing finance etc. for the development of cottage industries in rural areas.

Q. 14. Describe the fundamental duties of citizens of India.

Ans. In a democratic state, citizens exercise of their rights and freedoms is inseparable from the performance of their duties and obligations. The constitution of India (Forty second Amendment Act, 1976) provides for every citizen certain fundamental duties which are enumerated as follows :

It shall be the duty of the citizen of India—

[1] to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem ;

[2] to cherish and follow the noble ideals which inspired our national struggle for freedom ;

[3] to uphold and protect the sovereignty, unity and integrity of India ;

[4] to defend the country and render national service when called upon to do so ;

[5] to promote harmony and the spirit of common brotherhood amongst all the people of India transcending relations, linguistic and regional or sectional diversities ; to renounce practices derogatory to the dignity of women ;

[6] to value and preserve the rich heritage of our composite culture ;

[7] to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures ;

[8] to develop the scientific temper, humanism and the spirit of inquiry and reform ;

[9] to safeguard public property and to adjure violence ;

[10] to strive towards excellence in all spheres of individuals and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

So, rights and duties are closely related. We should have a set of fundamental duties in addition to the fundamental rights in the Constitution. Like the Russian Constitution of 1993, the Indian Constitution also enumerates a list of duties. The fundamental duties enable the citizens to secure participation in the political system more effectively. In India, love for the Motherland is very much necessary and the fundamental duties are intended to evoke love for the Motherland and respect for the Constitution and laws of the country. In short, the Indian citizens not only enjoy certain rights, but also perform their duties towards the state.

4

## NATURE OF FEDERALISM AND CENTRE-STATE RELATIONS

Q. 18. Discuss the nature of Indian Federation.

Or,

Discuss the nature of federal system of Government existing in India.

Or,

Examine the statement : "The Constitution of India is more unitary than federal."

Or,

The present Constitution of India has been described as a "flexible federation". What is meant by this expression ? Discuss in this Constitution the peculiar features of the Indian federation.

Ans. India is a federal State. But the word "federation" has not been used anywhere in the Constitution of India. Art. I of the Constitution states that India is a Union of States. According to Dr. Ambedkar, there are two advantages in using the expression "Union of States." Firstly, the Indian federation is not the result of an agreement by the States to join the federation. It implies that the States were not sovereign before the formation of the federation. Secondly the constituent States cannot secede from the federation. In short, the Indian federation has been formed on the Canadian model. At present, our federation consists of 28 States and 6 Union Territories. Besides Delhi is a National Capital Territory, and not a Union Territory.

It has been said that a federation intends to reconcile national unity and power with the maintenance of the rights of States. A true federation has certain features viz., (a) dual government, (b) distribution of powers, (c) supremacy of the Constitution, (d) supremacy of the judiciary.

In theory, all these characteristics are present in our federation. In India, there are two sets of government, the Central Government and the State Governments. The States are not the mere agents of the Centre. Secondly, the Constitution of India is the supreme law of the country. The Centre and the States derive their

respective powers from the Constitution. Neither the Union Government nor the State Governments can disregard the Constitution. Our Constitution is also rigid. It cannot be amended in the ordinary law-making process. Both the Centre and the States participate in the amendment of the federal provisions of the Constitution. Thirdly, the written Constitution of India divides and distributes the powers—legislative, administrative and financial—between the National Government and the State Governments. In India, the legislative powers have been divided into three lists—the Central List, the State List and the Concurrent List. The Central List consists of 99 items. The Union government alone can control these items. There are 61 items in the State List. The State Governments have the exclusive power to make laws on these subjects. Lastly, both the Centre and the States are equally interested in the Concurrent List which includes 52 items. Fourthly, the supremacy of the judiciary has an important place in Indian federation. At the apex of the Indian judicial system stands the Supreme Court, the highest and final tribunal of the country. The Supreme Court acts as the interpreter and guardian of our Constitution. It settles all constitutional disputes between the federation and the states. The Supreme Court possesses the power to nullify the unconstitutional legislation.

But the critics point out that the constitution of India deliberately sets up a highly centralised government. It is almost an established fact that our Constitution is shifting towards unitary system because there are strong unitary elements in Indian Constitution. In this respect, our federation differs from the federations of U. S. A. and Switzerland.

[a] In theory, the Central Government and the State Governments are supreme in their respective spheres. But the distribution of powers is favourable to the Central Government. The Union Government and the State Governments are equally empowered to make laws on the Concurrent subjects. But if there is a conflict between a federal law and a state law on the same subject, the former will prevail over the latter. In India, the residuary powers belong to the Centre. But in the U. S. A. the State Governments enjoy the residuary powers. Moreover, the Central government can make laws on State Subjects under extraordinary circumstances. As for example, Parliament is

empowered to enact laws on a subject included in the State List in the national interest, if the Council of States (Rajya Sabha) passes a resolution by its two-third majority for that purpose. Again, Parliament can make laws on an item enumerated in the State List in order to implement international treaties or agreements. Moreover, the legislatures of two or more State may also request the parliament to legislate on State subjects. This is the negation of the federal principle.

[b] In the U. S. A., each constituent State has a separate Constitution of its own. And the governmental business is carried on in accordance with this Constitution. But in India, there is only one Constitution viz. the Constitution of India. The Constituent States of India, except for Jammu and Kashmir, do not possess separate Constitutions. The Constitution of India is also the Constitution of States. The Union Government and the State Governments perform their respective functions within the framework of the Indian Constitution.

[c] In the U. S. A. the Constitution is very rigid. Congress—the federal legislature of the U. S. A.—alone cannot amend the Constitution. The State Governments play an important role in the amendment of the Constitution. In the U. S. A., an amendment to the Constitution must be ratified by three-fourths of the States. The State Governments may also initiate a proposal for the amendment of the Constitution. In India, on the other hand, the Constitution is partly rigid and partly flexible. Our States have no right to initiate a bill for the amendment of the Constitution. Again, Parliament alone is empowered to change the provision of the Constitution relating to the fundamental rights of citizens. There are certain provisions which can be amended by Parliament in the process of ordinary law-making. Moreover, the ratification of only half of the State legislature (not the three-fourths as in U. S. A.) is sufficient to amend the constitution.

[d] Like the Canadian federation, the Governor of an Indian State is appointed by the President of India. He holds office during the pleasure of the President. Further, the State Government may reserve a bill for the consideration of the President. All these features do not exist in the U. S. federation.

[e] The Supreme Court of the U. S. A. in the famous case Texas Vs. White (1864) has held that America is an "indestructible



Union of indestructible States." It implies that the federal government of U. S. A. is not competent to change the boundaries of a State without its consent. In India, the Union is indestructible. But the States are destructible. Our Parliament is empowered to alter the boundaries and names of the States without their approval.

[f] The Principle of equal representation of States is a novel feature of the U. S. federation. The constituent States of America have equal status. As for example, each state, big or small, sends two representatives to the Senate irrespective of its territory, population and wealth. But in India, the Constitution has not recognised this principle. The members of the Council of States (Rajya Sabha) are elected on the basis of the population. For example, Uttar Pradesh sends 34 representatives to the Council of States. But the total number of members of West Bengal to the Council of States is only 16.

[g] The U. S. federation is characterised by double citizenship. In the U. S. A., a person is a citizen of the Union. He is also a citizen of the State in which he resides. But the Constitution of India provides for a single citizenship, viz., the citizenship of India. There is no separate citizenship for the States. All person are citizens of India. No one can be a citizen of West Bengal or Orissa. Single citizenship enables India to establish a strong feeling of national unity among the citizens.

[h] In the U. S. A. there is a dual system of judiciary viz., the federal judiciary and the state judiciary. The Federal Courts and the State Courts run parallel. There is a single integrated judicial system in India. The Supreme Court is the highest judicial organ. All other judicial organs—the High Courts and the inferior courts are subordinate to the Supreme Court. The decisions of the Supreme Court are binding on all courts.

[i] Under the U. S. federation, the States have the right to appoint and dismiss their own officers. But in India, the members of the Indian Administrative service and the Indian Police Service are appointed by the Union Public Service Commission. They also work under the State Governments. But they cannot be removed from office without the consent of the U. P. S. C. which is an organ of the Central Government.

[j] There is only one Election Commission in India. The

members of Commission are appointed by the President of India. The Election Commission conducts the elections not only of Parliament by also of the State Legislatures. Again, the Comptroller and Auditor-General also controls the accounts of the State Governments. But he is appointed by the President of India.

[k] Under the Indian federation, the Central Government is empowered to give direction to States to ensure compliance with the legislative and administrative activities of the Centre. All these provisions enable the Union government to supersede the State Governments.

[l] During the periods of emergency, the Indian federation is transformed into a Unitary State. The powers of the Central Government are greatly increased in times of emergency. While a proclamation of National Emergency is in operation, Parliament can make laws on any subject enumerated in the State List. Again, if there is a breakdown of constitutional machinery in a State, the President may assume all the executive powers of that State. During the period of financial emergency, the States are bound to obey the directions of the Central Government.

From the above account, it may be said that there is a strong unitary bias in our Constitution because the supremacy of the Central Government prevails in Indian Federation. The Constitution deliberately makes the Federal Government highly centralised. It is justified on the ground that there are differences of caste, race, religion prevailing in the country. Again, the national integrity and unity and solidarity can be preserved only with the help of strong centre. But the critics are not willing to describe India as a perfect federation. It is said that India is federal in form with a pronounced unitary bias. India is unitary in substance. Prof. Wheare observes, "India is a unitary State with subsidiary federal features rather than a federal State with subsidiary unitary features." But, according to Ambedkar, our Constitution has precisely distributed the powers between the Federation and the States. So, it is not correct to say that the States are subordinate to the Central Government in all respects. If we describe India as a Unitary State or a Federal State, our discussion will be one-sided. And it cannot be scientific.

Really speaking, India is a quasi-federal State. In other words, it combines the principles of federalism and unitarianism. In

normal times, the Central Government and the State Governments exercise their functions independently of each other. The Supreme Court decides all constitutional disputes that arise between the Centre and the States. But in the period of emergency, the Central Government assumes extra-ordinary powers and may supersede the State Governments. The autonomy and independence of the States are greatly limited in emergency. But this is a necessity in order to protect the unity, solidarity and integrity of India.

Mr. Justice D. Basu, the Constitutional expert of India, has said, "The Constitution of India is neither purely federal nor purely unitary, but is a combination of both."

But the powers of the Central Government have been enlarged in all federations. Even in the U. S. A. which is said to be an ideal federation, the powers of the national government have been considerably increased due to war, economic crisis, judicial decisions, growth of social services etc. In this connection, we may point out the views of the Ex-Chief Justice of India. Mr. Justice Hidayatullah opined that India should be unitary instead of a federal one in order to check the decisive forces prevailing in our country.

Q 16. What are the major characteristics that make the Indian Constitution a federal Constitution?

Or,

Describe the principal features of the Indian federalism?

Ans. Federalism implies a form of government in which all powers of the government are divided and distributed between the Central Government on the one hand and the State Governments on the other hand. It reconciles the national unity and power with the maintenance of State rights.

The Constitution of India is regarded as a Federal Constitution. But the word "federation" has not been mentioned anywhere in the Constitution. India is called a Union of States. The Indian federation is framed on a Canadian model. At present, there are 28 States and 6 Union Territories. The major characteristics of Indian federalism are described below :—

[1] The Indian federalism has been characterised by the double systems of government. They are the Central Government and the State Governments. The States are not the mere agents

of the Union Government. Like the Centre, each State has a separate legislative, executive and judicial organs.

[2] In India, the federal Constitution is the supreme law of the land. It is placed over the Central Government and the state Government. Both the Union Government and the State Governments derive their respective powers from the Constitution. The Supreme Court protects the sanctity of the Constitution.

[3] The federal Constitution of India is written and more or less rigid. The Constitution of India is written because it has been enacted by the Constituent Assembly on 26th November 1949 and has come into force on the 26th January, 1950. The Constitution is more or less rigid. For it cannot be amended in the ordinary process of legislation. The Union Parliament of India alone cannot amend the whole Constitution. In case of amendment of the federal provisions of the Constitution (election of the President, distribution of powers, representation of States in Parliament, etc.) the consent of half of the State legislatures is required.

[4] The distribution of powers between the Central Government and the State Governments is the most important feature of the Indian Constitution. It divides and distributes the legislative, executive and financial powers between the two sets of government. In India, the legislative powers have been distributed into three lists—the Union or Central List, the State List and the Concurrent List. In the Union List, there are 99 items. Parliament has exclusive powers over these subjects. The most important items are : defence, foreign affairs, security of State, currency, war and peace, banking and insurance, citizenship, etc. The State List comprises of 61 items on which the State Legislature can make laws. The important items are : public health, agriculture, irrigation, land revenue, etc. The Concurrent List has 52 items. Both the Union Parliament and the State Legislatures are entitled to legislate on the Concurrent subjects viz., education, civil and criminal laws forests, bankruptcy, contempt of court, etc. However, the Constitution of India clearly lays down that if there is a conflict between the Parliament and the State Legislatures on a Concurrent subject, the former will prevail over the latter.

[5] In our federal system, both the Central Government and the State Governments are legally co-ordinate. Neither is

subordinate to the other. The State Governments have separate existence of their own. The Parliament cannot alter the division of powers without the consent of the States.

[6] The supremacy of the Judiciary is another important feature of the Indian federation. At the apex of the Indian Judiciary stands the Supreme court whose decisions are binding on all other courts—the High Courts and the subordinate courts. Our Supreme Court acts as the interpreter and guardian of the Constitution. It also protects the fundamental rights of citizens. The Supreme Court can declare a law or an executive order null and void if it is inconsistent with the provisions of the Constitution.

Q. 17. Explain the unitary features of the Indian Constitution.

Or,

Do you think that there is a unitary bias in the Indian federation? Give reasons for your answer.

Ans. Federalism is a political contrivance intended to reconcile the national unity and power with the maintenance of State rights. India is called a federal State. But the Constitution of India describes it as a Union of States. The Constitution of India sets up a highly centralised government. There is a strong unitary bias in our federation. The unitary elements (features) of the Indian Constitution are as follows :

[1] The distribution of powers is favourable to the Central Government. For, the Parliament can make laws of 99 items. Besides if there is a conflict between a Union law and a state law over the Concurrent subject, the former will prevail over the latter. The residuary powers have been given to the parliament. It can make laws on State subjects in the national interests or to implement international treaties or agreements.

[2] In India, the Governor of a State is appointed by the President of the Republic. He holds office during the pleasure of the President. Besides, the State legislature may reserve certain bills for the assent of the President of India.

[3] In our country, excepting Jammu and Kashmir, other States have no separate Constitutions of their own. Like the Centre, the State Governments also derive their powers from the same constitution, i.e., the Constitution of India.

[4] The Constitution of India is partly rigid and mainly flexible. The power to initiate a Constitution Amendment Bill rests with

the Parliament. Again, the Parliament alone can amend the major provisions of the Constitution by two-thirds majority in each of its two Houses—the Lok Sabha and the Rajya Sabha. The consent of half of the State legislatures is required to amend the federal provisions of the Constitution, viz., election of the President, representation of States in Parliament.

[5] In America, the States are indestructible. But, in India, the states are destructible. It means that in our federal system the Parliament can alter the names and boundaries of the States without their consent.

[6] The principle of equal representation of States in the Upper House of Parliament does not exist in India. For the members of the Rajya Sabha are elected on the basis of population.

[7] Another Unitary element of our federation is single citizenship, i.e., the citizen of India. The inhabitants of States have no separate citizenship.

[8] In India, there is a single integrated judicial system in our country. The Supreme Court is the highest judicial organ. All other courts—the High Court and the lower courts—are subordinate to the Supreme Court. Its decisions are binding on all judicial organs of the country.

[9] The members of the Indian Administrative Service and the Indian Police Service are appointed by the Union Public Service Commission which is an important agency of the Central Government. But they also work under the State governments which cannot dismiss them without the approval of the Commission.

[10] There is one Election Commission and an Auditor General in India and they conduct the election, and audit the accounts respectively of the Central Government and the State governments.

[11] The Constitution of India has empowered the Central Government to give directions to the States to ensure compliance with the administrative and the legislative functions of the Central Government.

[12] During the periods of emergencies, the Central Government exercises a great control over the legislation, administration and finances of the States.

To conclude, there is a strong unitary bias in our constitution



because the supremacy of the Central Government prevails in Indian federation. The framers of the Indian Constitution have deliberately made the Union Government highly centralised. It is said that India is a Unitary State with subsidiary federal features rather than a federal State with subsidiary unitary features. Really speaking, India is a quasi-federal State. It combines the principles of unitarianism and federalism. The Constitution of India is neither unitary nor federal. It is a combination of both.

Q. 18. Explain clearly the principles followed in respect of the distribution of powers between the Parliament and the legislatures of States in India.

Or,

Describe and comment on the legislative relationship between the Union on the one hand and the States on the other.

Or,

How are the legislative powers divided between the Union and the State governments in India?

Ans. The most distinctive feature of a federal government is the division and distribution of powers. In a federation, the written Constitution of the Country divides and distributes the legislative powers between the Central Government and the State Governments. In a true federal state, both the Centre and the States are co-ordinate. Neither is subordinate to the other. The Central Government and the State Governments enjoy supreme power in their respective jurisdictions.

In the U. S. A. and Switzerland, the constitution defines the powers of the Central Government leaving the residuary powers to the States or the Cantons. In the U. S. A. for example, Art. 1 lays down that the Congress can make laws on eighteen (18) topics only. The constituent States of the U. S. A. enjoy the residuary powers.

In Canada, on the other hand, the powers of the Central Government and of the Provincial Governments are clearly defined and laid down in the Constitution. But the residuary powers under the Canadian Constitution belong to the Central Government.

In India, the distribution of legislative powers between the Centre and the States may be discussed under two heads, viz., ordinary and extra-ordinary.

[a] Ordinary : Like the Government of India Act, 1935, the Constitution of India also provides for three lists in respect of distribution of legislative powers between the Centre and the States. These three lists are : Union List, State List and Concurrent List. They have been incorporated in the Seventh Schedule, of the Constitution.

Union List : There are 99 items in the Union List. The items include foreign affairs, defence, treaties, war and peace, banking, currency and coinage, citizenship, railways, posts and telegraph, insurance, etc. The Union Parliament can exclusively make laws on these items.

State List : The State List contains 61 subjects. The State Legislatures are fully empowered to make laws on these subject. The important subjects are public order, police, local self-government, public health, agriculture, water supply, irrigation, land revenue etc.

Concurrent List : The Concurrent List includes 52 items viz. education, civil and criminal procedure, marriage and divorce, contracts, bankruptcy and insolvency, contempt of court etc. Both the Union Parliament and the State Legislatures have equal power of legislation over the items. But if there is a conflict between a Central law and a State law with regard to an item mentioned in the Concurrent List, the former will prevail over the latter. On the other hand, if a law passed by the State Legislature is reserved for the consideration of the President and received his assent, it shall prevail over the law of Parliament.

Like the Canadian Constitution, the Constitution of India vests the residuary powers in the Central government.

[B] Extra-ordinary : The Union Parliament can make laws on the State subjects under certain extra-ordinary circumstances.

[1] Parliament has the power of legislation with regard to any item mentioned in the State List in the national interest; if the Council of States passes a resolution to that effect supported by a majority of not less than two-thirds of its members present and voting (Art. 249).

[2] When a Proclamation of National Emergency is in operation, Parliament can make laws on the subjects enumerated in the State List (Art. 250).

[3] Parliament is also empowered to legislate over a subject

included in the State List, if two or more legislatures of States request the Parliament to make law on that subject (Art. 252).

[4] Parliament can make laws on subjects enumerated in the State List for the implementation of international treaties, agreements, or conventions with the foreign States (Art. 253).

[5] In case of breakdown of constitutional machinery in a State, the President of India may declare that the powers of the legislature of the State shall be exercisable by or under the authority of Parliament (Art. 356).

[6] Certain bills (e.g. derogation of the powers of the High Court) passed by the State Legislature are reserved by the Governor of that State for the consideration of the President. The President may either give his assent, or veto it, or return it for the consideration of the State Legislature with his own recommendation.

**Comment :** From the foregoing discussion, it may be pointed out that the supremacy of the Central Government prevails in India. The Union Government possesses absolute power of legislation. Some people support the federal centralisation on the ground that unless the powers of the Central Government are increased, the national unity cannot be maintained. It is argued that a strong Central Government can only promote the welfare of the people and protect the national integrity and solidarity.

But there are critics who declare India as a quasi-federal State. In India, the Central Government possesses more power than the Central Governments of other federal States of the world. In normal times, the Union Parliament is entitled to make laws on the State subjects in the national interest or for the purpose of implementing international treaties and agreements. In times of emergency, the Central Government can effectively control the affairs of the States. And our federation is transformed into a unitary State. It is a virtual negation of the basic principle of federalism. There is a pronounced unitary bias in the Constitution of India.

But it may be said that the constituent States of India do not enjoy the delegated powers. They have independent existence of their own. Their source of power is the Constitution itself. The State Legislature still can make laws on public health and

agriculture. It is true that the Central Government can make laws on State subjects in the period of National Emergency. But it does not mean that the legislature and the executive remain suspended.

India has adopted the ideals of a Welfare State. Hence, the powers of the Central Government should be increased to promote the welfare of the people.

**Q. 19.** Write a critical note on the Administrative Relations between the Union and State in India.

*Or,*

Discuss the nature of the administrative relations between the Union and the State in India.

**Ans.** One of the essential features of a federation is that the powers are divided and distributed between the Centre and the States in accordance with the provisions of the written Constitution of the land. The Constitution of India also distributes the administrative powers between the Union Government and State Governments. Our Constitution provides for co-ordination and cooperation between the Centre and the States in matters of administration.

According to the Constitution of India, the Central Government exercises administrative powers over 99 subjects enumerated in the Union List. The State government is entitled to administer those subjects (61 items) which have been included in the State List. So far as the legislation of Concurrent Subjects (52) is concerned, it may be pointed out that they are usually executed and administered by the State Governments. There is an exception to this principle. The Central Government may also administer a subject embodied in the concurrent List. In that case, the State Government cannot interfere with it.

The administrative relations between the centre and the States may be discussed from two angles viz., (a) Normal times and (b) Emergency period.

[A] Normal times : According to the provisions of the Constitution of India, the Central Government may issue directions to the States. But these are absent in the Constitutions of the U. S. A. and Australia. In this respect, the Constitution of India has followed the Government of India Act, 1935.

[i] The executive power of every State is so exercised as to

ensure compliance with the laws made by Parliament. For that purpose, the Central Government may give directions to a State.

[ii] The executive power of every State is so exercised as not to impede the exercise of the executive of the Centre. The Union Government may give directions to states for that purpose.

[iii] The Central Government may also give directions to any State for the construction and maintenance of means of communication of national and military importance as well as for the protection of the railways within the State.

[iv] The Union Government may also give directions to State for the execution of schemes which are essential for the welfare of the Scheduled Tribes as well as for the development of the Hindi language.

[v] The President of India is empowered to delegate to the Government of a State certain administrative powers of the Union with the consent of that State.

[vi] The Constitution of India empowers the Union Parliament to make laws for inter-state rivers and river valleys.

[vii] The Constitution of India has authorised the president to set up an Inter-State Council for the purpose of inquiring common subjects in which the Centre and the States are equally interested.

[viii] The Central Government may effectively control the administrative affairs of the States through the officers appointed under the scheme of All-India Services. Parliament can make the necessary laws for creation of one or more All-India Services common to the Union and the States.

[ix] The Central Government also control the States through grants-in-aid. Parliament has been empowered to give financial aid to any State.

[B] **Emergency Period :** In times of emergency, the Central Government effectively controls the executive powers of the States.

[i] While a proclamation of National Emergency is in operation, the executive power of a State is to be exercised in accordance with the directions issued by the Central Government.

[ii] In case of failure of constitutional machinery in a State the President of India may assume to himself all or any of the administrative powers of the State.

[iii] During the period of a proclamation of Financial Emergency, the government of every State must observe the canons of financial propriety.

To conclude, the Constitution of India has made the Union Government stronger than the State Governments. For, it arms the Centre with substantial powers to direct all important activities according to a uniformly executed plan. The Union Government supersedes the authority of the States in times of emergency. Even in normal times, the Union Government exercises a great control over the Government of the States by giving necessary directions to them.

**Q. 20. Give a critical estimate of the financial arrangements between the Union and the States under the Constitution of India.**

*Or,*

**Discuss the financial relations between the Union and the States in India.**

**Ans.** Federalism is characterised by the distribution of financial resources between the Centre and the States. It is regarded as an essential ingredient of a federal State: In a perfect federation, the Centre and the States are co-ordinate. So they should enjoy autonomy in financial matters. The State Governments in particular should be allowed to raise their revenues in order to perform their activities properly and smoothly. Otherwise, it will be impossible for the State to maintain their separate identity and independent status.

The Constitution of India has made detailed provision in respect of financial relations between the Centre and the States.

In India, the Union Government has been empowered to levy taxes on currency, coinage, foreign loans, railways, posts and telegraphs, public debt of the Union, Corporation tax, etc.

The State Governments have exclusive power of taxation over land revenue, estate duty, consumption or sale of electricity, rates of stamp duty, vehicles, luxuries, agricultural income, capitation taxes, etc.

According to the Constitution, the Union Government enjoys the residuary power of taxation, i.e., the taxes which have not been included either in the Union List or in the State List.

In India, there are certain taxes which are imposed by the



Central Government but they are collected and appropriated by the States viz., stamp duties, excise duties on medicinal and toilet preparations.

Again, there are certain taxes which are levied and collected by the Union but whose net proceeds are assigned to the States. As for example, taxes on railway fares, the sale or purchase of newspapers, etc.

Moreover, there are certain taxes which are imposed and collected by the Central Government but they may be distributed between the Centre and the States, viz., taxes on income other than agricultural income.

Furthermore, there are some taxes which are levied and collected by the Union Government but the Parliament may by law distribute their net proceeds between the Centre and the States. As for example, the excise duties other than duties on medicinal and toilet preparations.

It is true that the State Governments may not have adequate financial resources at their disposal. Hence the Union Government grants financial aid to the States every year. The principle relating to the grants-in-aid to the States is determined by the Parliament. In this connection, it may be pointed out that a Finance Commission is appointed by the President of India. Its main function is to recommend to the President as to the distribution of net proceeds of taxes between the Centre and the States and the principles which govern the grants-in-aid given by Central Government to the State Governments.

In times of emergency, the Union Government has the power to control the financial activities of the States. As for example :

During a proclamation of National Emergency, the President of India may by order suspend the distribution of financial resources between the Centre and the States. Moreover, the grants-in-aid given by the Union to the States may remain suspended.

In case of breakdown of constitutional machinery in a State, the financial powers of a State Government are to be exercised by or under the authority of Parliament.

During a proclamation of Financial Emergency, the Central Government has the power of issuing directions to the States to observe canons of financial propriety. Moreover, it may also give

directions for reduction of the Salaries of persons serving under the state.

The above discussion clearly reveals that the Centre has a strong position so far as the Union-States financial relations are concerned. The State Governments are reduced to dolereceiving corporations. The resources of the States are extremely limited. They depend upon the financial assistance of the Centre. Grants-in-aid are provided to the State Governments with strings or conditions attached to them. All foreign assistance either from countries or international agencies is acquired by the State/States only through the Union Government. In both the State List and the Concurrent List, the Union government has overriding Control. As a result, of the paramount control of the Union over the State Governments in financial matters, the latter finds it difficult to implement a number of its plans due to lack of resources. Finally, the Union Government may destroy the financial autonomy of the States in times of the Financial Emergency. Thus the position of the Union is very strong as compared to the position of the units of our system in financial matters. Above all, the machinery of planning has also resulted in the integration of our financial system.

✓ Q. 21. Write a short essay on the Centre-States relations in India ?

Or,

Discuss, with reference to the Centre-States relations, the nature of Indian federalism.

Ans. The principle of division of powers is an essential mark of Federation. The Constitution divides and distributes all powers and authority between the two sets of government. In India, we have a federal type of government in the country. The Constitution of India clearly demarcates the legislative, administrative and financial powers between the Central Government of the one hand and the State Governments on the other. In case of distribution of legislative powers between the Centre and the States, the Republican Constitution of India has, followed the Government of India Act, 1935. And in matters of administration and finances, the framers of the Indian Constitution seek to ensure a harmony between the Union Government and the State Governments.

In India, the Centre-State relations can be judged from three angles, viz., legislative, administrative and financial. The Constitution of India divides and distributes the subjects of legislations into three lists which are as follows : [A] *The Union List* : It contains 99 items on which the Union Parliament can exclusively make laws. Some of the items are : foreign affairs, security of State, defence, etc. [B] *The State List* : comprises 61 items on which the State legislatures are competent to frame laws. The important items are : police, public health, local self government, irrigation and agriculture etc. [C] *The Concurrent List* : It consists of 52 items such as education, forest, marriage and divorce, civil and criminal procedure. Both the Union Parliament and the State Legislatures are equally entitled to make laws on the Concurrent subjects. But a State Law on a Concurrent item will be invalid if it is in conflict with a Union law on the same subject. In India, the residuary powers belong to the Central Government. However, under certain circumstances, the Union parliament can make laws on the subjects enumerated in the State List in national interest, or to implement international treaties, or when a National Emergency, or a Constitutional Emergency in a State is made.

The Constitution of India also provides for administrative relations between the Centre and the States. The executive power of the State must be so exercised that it ensures compliance with the Union Legislations and administrations. The Central Government may give directions to the States for the proper maintenance of the means of communication. The Union Legislature is empowered to adjudicate disputes regarding the inter-state rivers and river-valleys. The President of India may set up an Inter-State Council for promoting the common interests of the Union and the States. The Central legislature may by law create one or more All-India Services common to the Union and the States. The President has the right to confer upon a State Government certain powers mentioned in the Union List. The Central Government can supersede the authority of the State in time of emergencies.

The Constitution of India provides for a broad scheme of distribution of financial resources between the Union Government and the State Governments. Under the Constitution, the Central

Government can levy taxes on currency, postage, foreign loans, railways, etc. The State Governments have the power of taxation over and revenue, estate duty, vehicles, etc. The Union Government has been given the residuary power of taxation. In India, there are certain taxes which are imposed by the Central Government but they are collected and appropriated by the States, viz., stamp duties, excise duties, etc. Again, there are some taxes which are levied and collected by the Union Government but they are assigned to the States. For example, taxes on railway fares. Apart from the distribution of sources of revenue, the Constitution of India makes provisions for financial aid to the States for their developmental works. A State Government can borrow money and raise loans with the approval of the Government of India. The States are required to maintain their accounts in accordance with the procedure prescribed by the Comptroller and Auditor General of India. Furthermore, the Constitution of India provides for the establishments of a Finance Commission to inquire into financial relations between the Centre and the States and make necessary recommendations.

In conclusion, we may point out that the entire scheme of distribution of powers shows a strong tendency towards centralisation in our federal system. The Constitution of India has deliberately made the Union Government stronger than the State Governments. It enables the Central Government to supersede the authority of the State in times of emergency. The Union Parliament is empowered to legislate on matters in the State List in the national interests. The Central Government is armed with adequate powers to direct all the activities according to a uniformly executed plan. The State Governments have no financial aid to execute their developmental works. The Constitution of India has given too much financial resources to the Centre and too little to the States. Further, the Union Government may give directions to the States to observe canons of financial propriety. Hence, there is a pronounced Unitary bias in our Federal system. There has been a clamour to alter this centralist bias. Accordingly, the Sarkaria Commission was appointed to examine into the Centre-State relations. It is only the future which will give a proper answer as to the re-orientation of the division of power between the Centre and the States.



Q. 22. Write a critical analysis conflicts in the Indian federal system.

Or,

Discuss the Centre-States conflicts in the Indian federal system.

Ans. The founding-Fathers of the Indian Republic have framed a federal Constitution which made the Centre stronger and superior to the States. Our Constitution-makers did so because they were fully conscious that in order to curb regionalism, parochialism, communalism and other destructive forces and also to bring about the socio-economic development in the country; it was imperative to have a strong Centre. But, at the same time, they had provided, though limited, autonomy and independence to States in the sphere of activity. But, over a five decades, the Centre has become all domineering and has encroached greatly even in the sphere of limited autonomy of the States. In depicting our federal polity, the framers of the Constitution have adopted a via media between the Canadian and American federal systems. Thus we have a federal polity of Union of States rather than a Federation of States.

In the years since independence particularly after the country's fourth General Election (1976), the Centre-States relations in Indian federal system has assumed greater importance and significance. The tensions have remained unresolved and there is no denying the fact that regional imbalances continue to persist. There have been many instances of the States pointing the accusing finger at the Centre and the Centre blaming the States. At present several parties have hold on the administration of different States. For examples—the Leftist Government in West Bengal and Tripura, the AIADMK Government in Tamil Nadu; the Telugu Desam Government in Andhra Pradesh etc. On many occasions, these governments have opposed the Centre's absolute rule in managing and running the administration of States even in normal times. So, they have opposed to the policies and methods of the Central Government and are very vocal about the demand for State-autonomy. Further, the issues such as border security, entry of illegal immigrants in a State, imposition of President's Rule in the States, the activities of disruptive forces, the States keenness to have more funds from the Centre, the

entry of States subjects into the Concurrent List, etc. further complicate the problem.

In the light of above discussion, we can find out the major tensions or Centre-States conflicts in our federal system.

#### [A] *Distribution of Powers*

Our Constitution in the Sixth Schedule [Article 246] has enumerated the subjects among the three lists concerning the Centre-States Legislative-Administrative-Financial relationships. But the entire scheme of distribution of powers exhibits a strong unitary bias. That is, it has strengthened the centralising process. The scheme of legislative relations has shown that the States have a much weaker position here compared to the Union. For examples—the Parliament can make laws on the Union, Concurrent and residuary subjects. Besides, the Union Government can legislate in normal times on the State subjects in the national interest, or on a request made by two or more states Legislatures, or to implement international agreements. Thus, in our Constitution, distribution of legislative powers, do have an inherent tendency for conflict between the Centre and the States. The Sarkaria Commission has observed that the Constitutional provisions are flexible enough to keep pace with the developing and heterogeneous society. The rule of federal supremacy is to avoid absurdity, resolve conflicts and ensure harmony between the Union and State laws.

As regards administrative relations, the Constitution establishes supremacy of the Central Executive over the States, in the administrative fields. For, the Union has been given too much control over the States to the extent of reducing latter to a completely subordinate status. Hence, some of the States have demanded the drastic revision of the provisions of Articles 256 and 257 [directions to the States, e.g. ensuring compliance with the Union laws and Union's administration even in normal times] and also Article 258 Concerning delegation of functions to the States. However, the Sarkaria Commission has recommended that the implementation of Union laws and the exercise of Union's executive powers are essential to ensure harmonious exercise of the administrative power by the Union and the States, in keeping with the principles Union supremacy. The Commission has further observed that federalism is a functional arrangement



for co-operative action. Article 258 provides a tool [delegation of functions], by the liberal use of which co-operative federalism can be substantially realised in the working of the system. Besides, the application of Article 365 [State Emergency, due to non-compliance with the Union's directives] should be a measure of last resort, i.e., when other alternatives to resolve the deadlock have been tried or failed.

Lastly, in case of Union-States financial relations in our federal system, the Central Government is financially stabler and stronger than the State Governments. So long as the States do not get their due share of fiscal cake, there will be tensions in Centre-States relationships. It is said that while the responsibilities of the States are increasing, their resources have remained stagnant. Therefore, the States have pleaded for the enlargement of States' taxation powers. The broad issues are : enlargement of States' own resources, pattern of devolution of resources, States indebtedness, market borrowing and sharing of capital resources. The Sarkaria Commission in this regard has found the scheme of distribution of taxation powers basically sound and has agreed with the sharing of revenues raised through taxes and revenues raised by market borrowings. The overall view is that the Commission maintains financial discipline of the Union and States. The Commission has recommended that the Centre should be more considerate in times of natural calamities in providing financial assistance to the States ruled by opposition parties. Moreover, a balanced, rational and practical approach by the political parties holding power at the Centre and in the States can be useful for removal of financial grievances of opposition parties ruled States. The Planning Commission plays an important role in the Centre-States financial relations. However, D. D. Basu has observed that if the States are required to follow the policy laid down by the Planning Commission, they cannot do without obtaining financial assistance from the Union. But strictly speaking, taking advantage of financial grant involves a voluntary element not coercion.

[B] *Governor-The Agent of the Centre* : The Governor acts as the agent of the Centre in the State. And the State has no voice in the appointment, transfer or dismissal of the Governor. The Constitution-makers have wanted the Governor to become a co-

ordinating factor between the Centre and the States. However, in recent years, the clashes between the Chief Minister and the Governor have become rather frequent. The end of BJP-Governments in the States of Himachal Pradesh, Madhya Pradesh and Rajasthan in 1992 provoke this contention, i.e., whimsically ousting the democratically elected governments. Therefore, it is but natural that a partisan Governor would be unacceptable to most Chief Minister. Accordingly, the Sarkaria Commission feels that much of the criticisms against the office of Governor may disappear if proper persons are chosen for a appointment. And the Governor should be appointed in consultation with the Chief Minister of the State concerned.

#### [C] *Reservation of a State Bill* :

The Governor has the power to reserve an ordinary bill passed by the State Legislature for the consideration of the President. And the assent of the President to the public bill of a State ruled by the opposition party has been very often used to delay the passage of the bill. According to the Sarkaria Commission, when the President withholds assent to the State bill, the reasons should be communicated to the State Government. In this connection, we are to note that the Inter-State Council has been set up in 1990. And it has been decided in its meetings that the President should not delay a State bill for more than four [4] months.

#### [D] *President's Rule in a State* :

Article 356 has dealt with the President's Rule and it empowers the Centre to dismiss a State Government. Since the commencement of the Constitution, this power has been used about a 100 times, though the Founding-Fathers of the Constitution hoped that it would only remain a "dead letter". Misuse of the power has been made possible by the choice of the Governors who in many cases have become the tools of the Centre. As regards imposition of President's Rule, the Sarkaria Commission is of the view that this power should be used very sparingly in extreme cases when all available alternatives fail to prevent a breakdown of Constitutional machinery. The grounds justifying President's rule should form part of the Proclamation. In its recent judgement, the Supreme Court has held that during the operation of State emergency, the Legislative Assembly cannot be dissolved without the approval of Parliament.

[E] *All-India Services :*

The members of the All-India Services [I. A. S. and I. P. S.] are recruited by the Union Government. But they occupy important positions both at the Centre as well as in the States. The complaint of the States is that in a federal set up to have all All-India Service that serves the needs of the States but is controlled by the Union is an unusual feature. It has also been remarked that it cannot be denied that there may be a feeling among the State Governments that All-India Service Officers are the agents of the Centre and may not carry out the policies of those States. Against this, it has been observed that the All-India Services give cohesions to the federal structure and help in achieving greater efficiency in the administration of the Union and the States. The members of these services are able to acquire national outlook as well as field knowledge as grassroot level.

[F] *Autonomy for States :*

Some constituent States [e.g. West Bengal, Kerala and Tripura; Tamil Nadu, Punjab and Kashmir etc.] of our federation have been demanding greater autonomy for quite some times. Their contention is that the Constitution of India is federal only in name. True federalism demands that the Union Government should not intervene in States' affairs, legally or operationally. But in our federal system, the State Governments have autonomy and independent. For examples—the election of the President, amendment of the federal provisions of the Constitution, jurisdiction over the State and Concurrent subjects, substantial increase of grants-in-aid etc. The Union Governments' contention is that it is not discriminating the States.

In India, the Centre-States relations constitute the core of the federalism and they are sufficiently flexible so as to enable the political system to work successfully. Any deviation from the American Model can hardly be the reason for calling India's federal scheme as quasi-federal. Even in the United States, a number of factors have combined to establish the supremacy of the national government. Indian federalism presents a typical example of "Co-operative Federalism". Protection of environment, family planning, control of terrorist and disruptive forces, economic and social planning for weaker sections etc. are the spheres in which considerable co-operation exists between the Central and the State Governments.

## 5

## THE UNION EXECUTIVE

Q. 23. Critically discuss the procedure of election of the President of India. How can he be removed ?

Or,

Explain how the President of India is elected ?

Ans. The President of India is not the direct choice of the people. According to the provisions of the Indian Constitution, our President is elected by the secret ballot by an electoral college consisting of the elected members of the both Houses of the Parliament [Lok Sabha and Rajya Sabha] and the elected members of all the Legislative Assemblies of the constituent States of the Indian Union. We know that the number of members in the Legislative Assemblies of different States varies widely. The Constitution provides that in the matter of election of the President, there must be some sort of uniformity and a measure of parity in the representation of different States in the electoral college. It is also necessary to secure equality between the State's representatives in the electoral college and the representatives of the Union. It may be pointed out that a method of Weighing Votes is introduced in such election.

According to the constitution, the number of votes, which each elected member of Legislative Assembly of a State is entitled to cast, is to be determined by dividing the population of the State by the total number of the elected members of the Legislative Assembly. If the remainder is more than 500, then the vote of each member is to be further increased by one. Here we may furnish an example to enunciate the formula. Suppose the total population of an Indian State is 4 crores and the number of elected members of its Legislative Assembly is 300. Dividing the total population [4 crores] by 300, we get 13,333 as the quotient. Again, dividing the quotient by 1000, we get 133. The remainder 333 is less than 500. So it may be disregarded. Therefore, each member is entitled to cast 133 votes.

But the Constitution provides for a different formula for the

elected members of both Houses of the Union Parliament. Under it, each elected member of either House of Parliament has such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States by the total number of elected members of both Houses of Parliament. If the total votes of all the members of the State Assemblies is 4,32,000 and the total number of elected members of Parliament is 750 then each member of Parliament will have 576 votes in the election of the President.

Further, the election of the President is held in accordance with the system of proportional representation by means of the single transferable vote. The names of the Presidential candidates are made to appear on a ballot paper. And every voter indicates on the ballot paper his or her first, second, third, fourth and fifth preferences depending on the number of candidates. The candidate needs a majority of votes for success. This is known as quota which is determined by dividing the total number of valid votes by two and then adding one to quotient. Suppose the total number of valid votes is 15000. Dividing this figure by two, we get 7500. To the quotient one is added. So the quota is  $7500+1=7501$ . In the first counting only the first preference votes are counted. The candidate who secures the quota is declared elected as the President of India. If however, no candidate obtains the required votes, the candidate polling the least number of votes is eliminated and the second preference votes marked on the ballot papers cast for him are distributed among the remaining candidates. The method of transferring the votes goes on till one candidate obtains the requisite number of votes.

The process of election of the President of India has been characterised by certain peculiar features.

*[1]* In India, the method of indirect election of the President has been preferred because in a vast country like ours with a huge electorate [nearly 70 crores], direct election would have involved a tremendous waste of time and energy.

*[2]* Each member of the Presidential electoral college must have to cast all his votes en bloc. It is not possible for him to divide his votes and give to more than one candidate.

*[3]* In our parliamentary democracy, the President is a nominal

executive. If he is directly elected by the people, there may be constitutional conflicts between the President and his Council of Ministers on all important matters of the Union Government. Again, a directly elected President may be induced to usurp powers and measure his strength against the Union Cabinet and thereby endanger the Constitution of India.

*[4]* It is said that the method of election of the President of India really amounts to election by "preferential vote" or "alternative vote" and not proportional representation. For the system of proportional representation requires multimember constituencies. It cannot be used where only one office like that of the President of India is to be filled.

*[5]* In the history of Presidential elections in India, the counting of second-preference votes was necessary for the first time in 1969 and Mr. V. V. Giri scored a victory as the fourth President of India.

*[6]* In 1974, the Supreme Court of India in its advisory jurisdiction has opined that the election of the President of India must be held before the expiration of the term of the outgoing President notwithstanding the fact that at the time of such election any State Legislative Assembly or Assemblies are dissolved.

The Constitution of India in Article 61 prescribes a procedure for the impeachment of the President of the Republic. The President of India may be removed from office for violation of the Constitution. A motion preferring such charge can be made in the shape of a resolution signed by at least one fourth [ $\frac{1}{4}$ ] of the total members of the House and moved after giving fourteen [14] day's notice. It may be initiated in either House of the Union Parliament. When a charge has been so preferred by one House, it shall be investigated by the other House. The President has the right to appear at such investigation. However, if such a resolution is passed by a majority of two-thirds members in each House of Parliament, the President of India is forthwith removed from his office. It may be noted that in our federation, the Supreme Court protects the sanctity of the Constitution. But it has no part to play in the impeachment of the President for the violation of the Constitution.

Q. 24. Discuss the powers and functions of the President of India and state his constitutional position.



Or,

Describe, in details, the powers and functions of the Indian President.

Ans. The Constituent Assembly has framed a democratic Constitution for India. It has pleaded for a strong, efficient and democratic system of government. So, the makers of the Indian Constitution have preferred a somewhat modified version of the British Cabinet system in our country. Therefore, the Republican Constitution of India has adopted the basic principles of the English Parliamentary government in our democratic political system. As a result, in Indian Parliamentary practice, the President is the nominal executive or a Constitutional ruler. He is the head of the nation, but does not govern the nation. Our Union Council of Ministers headed by the Prime Minister is the real executive. And the President rules the country on the advice of the Prime Minister and his colleagues.

We shall now discuss in details, the powers and functions of the President of India in the light of the above discussion. The powers and the functions of the President of India may be classified under five heads, viz., executive, legislative, financial, judicial and emergency.

[1] Executive Power : The President of India is the head of the executive of the Union Government. Therefore, all executive powers are vested in the President. He can exercise these powers either directly or through officers [ministers] subordinate to him. According to the Constitution, all executive action is also taken in his name. The President appoints the Governors of the States, the Judges of the Supreme Court and High Courts of the States. The Prime Minister of India is appointed by the President. The President also appoints other Ministers in consultation with the Prime Minister. The Constitution of India empowers the President to appoint the important officers of the Union Government including the Attorney-General for India, the Comptroller and Auditor-General of India, the Chairman of the Finance Commission, the Election Commissioners etc. The President is responsible for the administration of the Union Territories. For this reason, he appoints Chief Commissioners and Lieutenant Governors of the centrally administered areas. The President has been empowered to set up a Commission for the settlement of

disputes relating to the supply of water between two or more States. Moreover, the Constitution has authorised the President to establish an Inter-State Council to enquire into disputes that may arise between the States as well as to discuss the matters of the common interests between the Union and the States. The President alone can remove the Council of Ministers, the Governors of States and the Attorney-General for India. The President of India is Supreme Commander-in-Chief of the Army, Navy and the Air Force of the Union. He has the power to declare war. The President also enjoys the diplomatic power. He appoints the diplomatic representatives of India to the foreign States. He also receives the credential letters of the diplomatic representatives of other States. The President represents India in international affairs. He has the power to conclude treaties with foreign States.

[2] Legislative Powers : The President of India also enjoys legislative powers. He is an integral part of Indian Parliament. Parliament consists of the President and two Houses—the House of the people [Lok Sabha] and the Council of States [Rajya Sabha]. The President has the power of to summon and prorogue both the House of Parliament. He can also dissolve the House of the People before the expiry of its term. The Constitution of India empowers the President to deliver an address to the Parliament at the commencement of the first session every year. He may also send messages to Parliament. The President nominates two members to the Lok Sabha from the Anglo-Indian Community and twelve members to the Rajya Sabha from among the persons who have acquired special knowledge in art, science, literature and social service. In India, a public bill cannot become an act without the assent of the President. A bill passed by the Union Parliament is sent to the President for his assent. The President may give his assent to the bill or may withhold his assent from the bill or he may return the bill to Parliament for its reconsideration. If the bill is again passed by both Houses of Parliament, the President shall have to give his assent. When the Parliament is not in session, the President may issue an ordinance. It has the same force as the law or Parliament. But it must be placed before the Parliament when it again assembles. If it is then approved by both the Houses of Parliament, it will cease to operate after six weeks of the date of meeting of Parliament. And



the President can call a joint session of both Houses of Parliament to resolve a constitutional deadlock over a public bill.

[3] **Financial Powers** : The President of India also exercises financial powers. No money bill can be introduced in Parliament without the recommendations of the President. According to the Constitution of India, the Annual Financial Statement is placed by the President before both the Houses of Parliament. This statement shows the estimates of revenue and expenditure of the central Government for the next year. It may be pointed out that the proposal for taxation and expenditure cannot be made without the approval of the President.

[4] **Judicial Powers** : The President of India grants, pardons, reprieves or remissions of punishment to any person who has been convicted by a Court of Law.

[5] **Emergency Powers** : The President of India exercises extra-ordinary powers in times of emergency. In India, there are three kinds of Emergency, viz. [i] Emergency due to armed rebellion or external aggression; [ii] Emergency arising from the breakdown of constitutional machinery in a State; [iii] Financial Emergency.

The President of India may issue a Proclamation of National Emergency when the security of India or any part thereof is threatened by war, armed rebellion or external aggression. Such a Proclamation of Emergency may remain in force for an indefinite period. During a Proclamation of National Emergency, the executive power of the States is to be exercised in accordance with the directions given by the Central Government. Parliament has the power to make laws on the subjects enumerated in the State List. The right to freedom of speech and expression, freedom to form association, freedom to practise and profession, etc., embodied in Art. 19 shall remain suspended. In Case of failure of Constitutional machinery in a State, the President of India is authorised to make a Proclamation to that effect. The maximum duration of this type of emergency is three [3] years. During such an emergency, the President may assume to himself the executive powers of the State. The powers of the legislatures of the State are to be exercised by the Union Parliament. The President may also issue a Proclamation of Financial Emergency, if he is satisfied that the financial stability of India is threatened.

This type of emergency may continue to remain in force for an indefinite period. The Central Government may give directions to the States for canons of financial propriety. All money-bills passed by the State Legislatures are to be reserved for the consideration of the President.

**Position** : Thus the President of India has been given wide and far-reaching powers which he enjoys both during normal and emergency times. But after the passing of the Constitution Forty-Second [1976] and Forty-Fourth [1978] Amendment Acts, the President of our Republic has become a Constitutional figurehead and nothing beyond that. Today, President's position is one of great authority and dignity, but at the same time strictly constitutional. Thus the President is bound in every case to act on the advice of his Prime Minister and other Ministers who are responsible to the Lok Sabha and responsive to the public opinion. In short, the powers really reside in the Ministry and the Parliament and not in the President as such. He has no discretion in our Parliamentary system of government. The Supreme Court through various decisions has upheld the position that the President is a constitutional head and as such he is as much bound by the advice of his Ministers during emergency as during normal times. For example, the President can declare a proclamation of the National Emergency [Art. 352] only after receiving a written communication of the decision of the Union Cabinet. If the President abuses his powers, he can be removed from office by a process of impeachment.

It does not, however, mean that the President of India is a magnificent cipher or a mere rubber stamp. Unlike the British Monarchy which is hereditary, the President of our Republic is an elected Head of the State. In our coalition politics, there are some grey areas where the President may still have to use his own judgement and wisdom. These are—*/i/* appointment of the Prime Minister, */ii/* dismissal of the Union Ministry, */iii/* dissolution of the Lok Sabha and */iv/* seeking information on all matters of administration and legislation from the Prime Minister etc. In some such situations, the role of our President may become most crucial and decisive. However, the President has to be free from all political affiliations. He is expected to act with complete constitutional rectitude and impartiality. The nation is expected to

be benefitted by his wise leadership and constructive role. In short, the President of India is the symbol of national unity, magnet of loyalty and apparatus of ceremony.

**Q. 25.** Discuss the powers exercisable by the President of India during the emergencies.

**Ans.** According to Lord Bryce, the federation is a weak government because the powers are distributed between the Central Government and the State Governments. This is the reason that in every federation, the steps have been taken to increase the powers of the federal government in times of external aggression or internal disturbance. In the U. S. federation, for example, the Supreme Court has expanded the powers of the Central Government. But our Constitution has vested extensive powers to the Union Government or the President to deal with abnormal conditions in times of emergency. The emergency powers of the Indian President have been borrowed from the Weimer constitution of Germany and from the relevant portions of the Government of India Act, 1935.

The Constitution of India in Part XVIII provides three different types of emergency and in each case the President is empowered to declare the emergency. The emergency provisions of our Constitution [Articles 352-360] are enumerated as follows :

[1] Proclamation of National Emergency due to war or external aggression or armed rebellion.

[2] Proclamation of State Emergency due to the failure of constitutional machinery. And

[3] Proclamation of Financial Emergency due to badly shaken of financial stability.

**National Emergency [Article 352] :**

The President of India, after receiving a written communication of the decision of the Union Cabinet—the Prime Minister and other Ministers of the Cabinet rank—may issue a proclamation of emergency when the security of India or any part thereof is threatened or is likely to be threatened by war or foreign attack or armed rebellion.

Every such proclamation is required to be laid before each House of Parliament. It ceases to operate at the expiration of one month unless it has been approved by a majority of total membership of each of the two Houses [Lok Sabha and Rajya

Sabha] and two-thirds majority of those present and voting. The normal duration of a proclamation of national emergency is six [6] months from the date of approval. This may be extended for another six months by another resolution. Further, the Forty-Fourth Amendment Act [1978] lays down that the one-tenth [1/10] of the total members of the Lok Sabha may give notice to the Speaker of their intention of holding a special session of the House to discuss disapproval of such an emergency. And the discussion on this resolution must be held within 14 days.

We are to note that the national emergency was invoked in October 1962 [China's attack], December 1971 [Bangladesh liberation movement] and June 1975 [Internal Security threatened].

**The effects of proclamation of national emergency are :-**

[1] During a proclamation of national emergency, the executive power of every State in India is to be exercised in accordance with the directions given by the Union Government. Again, it is the duty of the Union to protect every State against external aggression or internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of the Constitution.

[2] The Parliament is vested with unlimited power to make laws for the whole or any part of the country on the subjects of the State List. Further, the President has the power to promulgate ordinances if the Parliament is not in session. Lastly, the tenure of the Lok Sabha and of the Vidhan Sabhas of the States can be extended by the Parliament by laws for a period of one [1] year at a time.

[3] While a proclamation of national emergency is in operation, the President may by order make the necessary alterations in the distribution of revenues between the Union and the State Governments.

[4] The fundamental rights of six freedoms in Article 19—freedom of expression, assembly, associations, movement or profession etc. stand automatically suspended. Further, the President may by order also suspend the constitutional right of citizens to move any court [Supreme Court or High Court] for the enforcement of any of the fundamental rights [except life and personal liberty of Articles 20 and 21] enumerated in Part III of our Constitution.



**President's Rule in a State (Article : 356)**

The emergency [due to failure of constitutional machinery] in a State can be proclaimed if the President of India is satisfied with the report of a Governor or otherwise, or on his own initiative that a situation has arisen in which that State Government cannot be carried on in accordance with the provisions of the Constitution.

The proclamation of State Emergency needs ratification by the Parliament within two months. After the parliament's approval, it may continue for six [6] months at a time subject to the maximum period of three [3] years. However, the Forty-Fourth Amendment Act of 1978 clearly lays down that the President's Rule can be extended beyond one year only when the National Emergency is in operation and the Election Commission certifies that holding elections to that State Legislative Assembly is difficult.

It may be pointed that during the last 50 years, almost all the States have been at one time or the other, put under the President's Rule.

The effects of the proclamation of State Emergency are as follows :

[1] The President of our Republic can assume to himself all or any of the functions of the concerned State Government as well as the powers of the Governor, except the powers vested in the High Court.

[2] The powers of the State Legislature are exercisable by or under the authority of the Parliament. Again, the Union Parliament can confer the power of legislation on the President and can also authorise him to delegate such powers to any other authority.

[3] According to the Supreme Court, the State Legislature remains suspended. But the Legislative Assembly (Vidhan Sabha) cannot be dissolved unless it is approved by the Union Parliament.

[4] When the Lok Sabha is not in session, the President can authorise expenditure from the Consolidated Fund of the State, pending subsequent sanction of such an expenditure by the Parliament.

It may be noted that the fundamental rights and the judicial remedies cannot be suspended during this emergency.

**Financial Emergency (Article 360) :**

The President of India is empowered to proclaim a State of financial emergency if he is satisfied that a situation has arisen

whereby the financial stability or credit of India or any part of the territory thereof is badly shaken.

The normal duration of a proclamation of financial emergency is two [2] months. However, such a proclamation must be laid before each House of Parliament. If it has been approved by resolutions of both Houses of Parliament by a majority of total membership voting separately, such a proclamation will remain in force for an indefinite period. We are to note that the financial emergency has not so far declared in our country.

The effects of financial emergency are as follows :

[1] The President of India may give directions to the States to observe certain canons of financial propriety and also other directions necessary and adequate for maintaining financial stability in the country.

[2] The President of India may direct a State to reserve all money-bills and other financial bills for his consideration after they have been passed by that State Legislature. Again, the President may also modify the normal allocation of revenues between the Centre and the States.

[3] The President of India may issue directions for the reduction of salaries and allowances of all or any class of persons serving under the Union and the State Governments including the Judges of the Supreme Court and the High Courts.

It may be noted that the fundamental rights cannot be restricted, nor judicial remedies suspended during this emergency.

The emergency provisions of the Constitution are the virtual negation of Indian federalism and also are incompatible with the democratic fabric of our constitutional system. They supersede the State Governments. In times of emergency—national, state or financial—all powers are concentrated in the hands of the Union Government. There seems to be a strong unitary bias in our federal structure. And lastly, the emergencies make our fundamental rights meaningless.

On the otherhand, the justification of emergency provisions lies in the fact that when the existence of the State itself is in danger due to external attack or internal disturbance or financial instability, the State (here it means the Union Government) must be armed with full powers to avert or meet that danger. And it is well that, at such a time, the restraints are placed on the good of

the individuals in the safety and security of the State and the State is not bothered by judicial interferences. The founding fathers of our Constitution have not only wanted to give a democratic Constitution but also provided a solid foundation of national unity and integrity. So, these emergency provisions are expected to be used in such real situations. However, these powers can be misused to meet out the political ends of the party in power, [e.g. the declaration of internal emergency in June 1975]. This can be checked by strong public opinion and democratic forces which are essential for the success of our federal-cum-parliamentary democracy.

Q. 26. Discuss the composition and functions of the Council of Ministers at the Centre.

Or,

"Behind formal parliamentary democracy, the Union Cabinet functions in reality as a dictator."—Discuss.

Ans. The Constitution of India has adopted the parliamentary democracy both at the Union and in the States. It is modelled on the British system.

At the Centre, the President is the nominal executive. The actual administration of the Government of India is carried on by the Council of Ministers headed by the Prime Minister. It has a constitutional status because Art. 74 [1] provides for Council of Ministers with the Prime Minister at its head to aid and advice the President in the exercise of his functions.

The President appoints the leader of the majority party in the House of the People as the Prime Minister of India. All other ministers are appointed by the President on the advice of the Prime Minister. The Minister hold office during the pleasure of the President. The Ministers must be the members of Parliament.

The number of members of the Council of Ministers has not been fixed by the Constitution. It is left to the discretion of the Prime Minister. But the Council of Minister has three categories of Ministers viz., *i)* The Cabinet Ministers, *ii)* the Ministers of State and *iii)* The Deputy Ministers. The word "Cabinet" has not been mentioned anywhere in the Constitution. In reality, the President always acts on the advice of the Cabinet Ministers.

In India, behind a formal parliamentary democracy, the Union Cabinet functions in reality as a dictator. This is not an exaggeration.

Like the British Cabinet, the Union Cabinet also exercises supremacy over all sorts of governmental affairs. The Cabinet dominates the executive, legislative, financial and judicial spheres.

The Union Cabinet is the real executive of the Government of India. It plays the key role in the executive sphere. It maintains law and order in the internal sphere. It formulates the general policy of the Union Government. The Cabinet supervises the activities of the various departments of the Government. Every Cabinet Minister is in charge of a particular department. He controls all appointments in his department. It is the Cabinet which virtually represents India in the foreign affairs. The Cabinet determines the foreign policy of India. It has also the power to negotiate treaties with the foreign States. All the higher officers of the State are appointed by the President on the advice of the Cabinet. The important decisions are taken in the meetings of the Cabinet. The Prime Minister always consults his Cabinet colleagues in regard to the affairs of the State.

The Union Cabinet also play an important role in legislation. In our parliamentary system, there is close relationship between the Cabinet and the Parliament. It is the Cabinet which acts as a link between the executive and the legislature. The Cabinet summons and prorogues the Parliament. The leader of the Cabinet—the Prime Minister—may request the President to dissolve the House of the People and to order a fresh election. The Cabinet introduces all important bills in the Parliament. These bills are easily passed because the Cabinet has a party support behind it in the Parliament. A bill produced by a Private Member cannot become an Act without approval of the Ministry. It is the Cabinet which prepares the speech that the President is to deliver at the commencement of the session of Parliament every year.

The Union Cabinet also exercises immense powers in the financial sphere. The Cabinet prepares the Annual Financial Statement or the Budget of the Government of India. This shows the estimate of revenue and expenditure of the Union Government for next financial year. The Budget is laid by the Finance Minister before each House of Parliament. The Finance Minister is an important member of the Cabinet. All sorts of proposals for taxation and expenditure must come from the Ministers. A private member has no power to place the budget before the



provisions relating to the arrest and detention of persons. When a person has been arrested and detained under the ordinary law, he must be informed of the grounds of his arrest as early as possible. He must be produced before the nearest magistrate within a period of twenty four hours and also allowed to consult a lawyer of his own choice to defend himself. However, these safeguards are not applicable to persons who are for the time being enemy aliens. Again, Art. 22 of our Constitution empowers the Parliament to make laws to detain a person without trial for the security of India or any part thereof for the maintenance of essential services of the community. When a person is arrested under the Preventive Detention Act, he must be informed of the grounds of his arrest. Moreover, the arrested person cannot be detained in custody beyond two months unless an Advisory Body consisting of judges of the High Court has reported before that period that there is sufficient cause for detention. In India the law of preventive detention is undemocratic. Art 22 lays a great stress on the Preventive Detention Act rather than on the personal freedom of citizens.

It may be pointed out that every citizen of India has the power to move the Supreme Court or the High Court for the protection of his/her personal freedom. And the Court can issue writs in the nature of habeas corpus for the enforcement of freedom of citizens. On the other hand, the rights to freedom of speech and expression, association etc. guaranteed in Art. 19 are suspended during the period of National Emergency (Art. 352) declared by the President of India. Besides, when a proclamation of National Emergency is in operation, the President of India may suspend the right of citizens to move the Supreme Court for the enforcement of their personal freedom as laid down in Arts. 21 and 22 of the Constitution.

**Q. 11. Explain fully the right to freedom of religion under the constitution of India.**

*Or,*

**In what sense India is called a secular state? Discuss in this connection the right to freedom of religion guaranteed by the constitution of India.**

**Ans.** Right to freedom of religion is the sheet anchor of our secular state. But the Indian Constitution does not define

the word "religion". However, the Supreme Court has observed that religion includes not only the philosophical tenets of a religious sect but also the rituals to be followed in a religious institution.

In India, the word "secularism" was borrowed from the U. S. Constitution. Though secularism has been accepted as one of the basic principles of Indian polity, there is no agreed and precise meaning of Indian secularism. Even the Founding Father of our Constitution found it difficult to put forth a precise meaning of the term (secular). Jawaharlal Nehru, the chief exponent of secularism in the Constituent Assembly, regretted the inability in these words. "We call our State a secular one. The word "secular" perhaps is not a happy one. And yet for want of a better word we have used it." A secular India does not mean a country without religion. It only ensures the institutional separation of the state from religion and a balanced approach to all faiths. Hence, by secular state is meant that the state is not going to make any discrimination whatsoever on the ground of religion against any person or community professing any particular form of religious faith and no particular religion in the state will receive any state patronage whatsoever. Rather, the state gives complete toleration to all religions, it adopts a neutral attitude towards all religions, and guarantees complete freedom of worship. Again, the constitution (Forty-second) Amendment Act, 1976 has inserted the word "secular" in the Preamble. Religion is a personal affair. The state is concerned with the relation between man and man and not with the relation between man and god which is a matter for individual conscience.

Articles 25 to 28 of Indian Constitution deal with the right to freedom of religion. These Articles (25-28) highlight the importance which the Fathers of our Constitution attached to the secular character of the Indian state. They also reflect the concern which the Founding Fathers had for protecting the interests of the religious minorities in the country.

***Freedom of conscience and Religion (Article 25) :***

The Constitution of India lays down that all persons—not only citizens—are equally entitled to freedom of conscience and the right to freely profess, practise and propagate religion. It means that all persons have the freedom to express their views on their



*Lastly*, the leadership of the Prime Minister is the most important feature of the Cabinet Government obtaining in India. The Prime Minister is the leader of the Cabinet. He guides the Cabinet. He co-ordinates and supervises the activities of different ministers. The Prime Minister is the chief among his colleagues because of his prestige and leadership. He acts as a bridge between the Cabinet and the President, as well as between the Cabinet and the Parliament. The members of the Cabinet are loyal to the Prime Minister in all affairs of the Government. The Prime Minister is not only the chief executive head, he is also the leader of the majority party in parliament. The Prime Minister has the power to appoint and remove a Minister. If any minister disagrees with the Prime Minister, he must resign. On the other hand, the whole Cabinet will fall if the Prime Minister resigns. Thus the Prime Minister is the key man in the Cabinet.

Q. 28. Discuss the positions and functions of the Prime Minister of India.

*Or,*

State the constitutional position of the Prime Minister of India and his relation with the Cabinet and the President.

*Or,*

Discuss and assess the position of the Prime Minister of India in the constitutional system of the Country.

Ans. The Prime Minister of India occupies a unique position in the constitutional system of the country. Under the parliamentary democracy of India, the Prime Minister is the real executive head. He is the architect of the Union Government. He is also described as the key stone of the arch of the Cabinet Government in India.

In India, the office of the Prime Minister is based on constitutional law. In other words, the Constitution has created and recognised the office of the Prime Minister. Thus unlike the British Prime Minister, the office of the Prime Minister of India has a legal and constitutional status. Art 74 (1) of the Constitution provides for a Council of Ministers with the Prime Minister at the head to aid and advise the president in exercise of his functions. The Prime Minister of India is not only the head of the real executive, he is also the leader of the majority party in Parliament.

Let us now discuss the powers and functions of our Prime Minister.

In India, the Council of Ministers is the real executive and the Prime Minister is its leader. The Prime Minister is central to the life and death of the Council of Minister.

The Prime Minister is appointed by the President. The President has little choice in this matter because he has no alternative but to appoint the leader of the majority party of an alliance in the House of the People (Lok Sabha) as the Prime Minister of India. The Prime Minister may also belong to the Council of States (Rajya Sabha). Other ministers are appointed by the President on the advice of the Prime Minister. In the selection of his colleagues, the Prime Minister cannot exercise arbitrary powers. He must be influenced by the influential leaders of the party. But a Prime Minister with a towering personality can disregard the advice of the party leaders.

The Prime Minister has the power to summon, prorogue and preside over the meetings of the Cabinet. He co-ordinates and supervises the activities of the different departments. He also settles all disputes that arise from the different ministers. In a Cabinet meeting, the decisions are taken by the majority votes. But the Prime Minister may ask his colleagues to reconsider the decisions. The prime Minister usually consults his Cabinet colleagues on all important problems of domestic and foreign affairs. If any minister disagrees with the Prime Minister, he shall have to resign. But the whole ministry will fall if the Prime Minister resigns.

The Prime Minister also plays an important role in foreign affairs. He has a decisive voice in the appointment of ambassadors, consults and other diplomatic agents. The Cabinet with its leader, the Prime Minister, may declare war and conclude peace and treaties with the foreign States. But these are subject to the approval of the Parliament. In one word, the Prime Minister represents India in international field.

The Prime Minister acts as the chief adviser of the President. He is the link between the Cabinet and the President. He advises the President in the appointment of the Ministers, the Judges of the Supreme Court and High Courts and other important officers of the Government of India. It is also the duty of the Prime

Minister to communicate to the President all important decisions of the Council of Ministers relating to the administrative affairs of the Central Government and proposals for legislation. He may advise the President to summon and prorogue the Parliament. He has also the power to advise the President to dissolve the House of the People and to order a fresh election.

The Prime Minister is also the recognised leader of Parliament. He is usually the leader of the majority party in the House of the people. The Prime Minister speaks on domestic and foreign affairs in Parliament. In the House of the People, he makes policy statements on behalf of the Council of Ministers. Sometimes, the Prime Minister introduces the important Government bills in Parliament. He must see that the Parliament approves the government bills without amendments. If the House of the People goes against his decisions, he has to resign with his colleagues.

**Position :** a perusal of the powers of the Prime Minister clearly shows that he is the effective ruler or the real head of the State in India. In our Parliamentary, democratic, political system, the Prime Minister occupies a unique position as the most powerful functionary who controls both the Parliament and the Executive. Increasingly our parliamentary government has come to be regarded as the Prime Ministerial Government. Firstly, the Prime Minister is central both to the life and death of the Union Ministry. And he enjoys undisputed supremacy over his colleagues (Ministers). Thus, the Prime Minister is the keystone of the Cabinet Arch.

Secondly, the Prime Minister is the undisputed leader of the Parliament, particularly the House of the people. The parliament looks to him for the redress of their grievances. Thirdly, to-day, a general election is the election of the Prime Minister. The waving voters support neither a party nor a policy, they support a leader. So, the Prime Minister is the leader of the nation and the people always look up to him for guidance and in times of national crisis in particular. Hence, the Prime Minister is the pivot around which the whole political and constitutional machinery revolve in India.

Questions relating to the relationships between the Prime Minister and other Ministers and also between the Prime Minister

and the President have been the subject matters of controversy in the recent past. For example, Mr. V. P. Singh had to resign, because he ceased to enjoy the confidence of the Prime Minister, Mr. Rajiv Gandhi. Similarly, there were fundamental differences between the President Dr. Rajendra Prasad and Pandit Jawaharlal Nehru. Even the President Zail Singh threatened to dismiss the then Prime Minister Mr. Rajiv Gandhi.

Since the commencement of our parliamentary constitution and government, the working of the Prime Minister's style emanates two types of trends. One, the Prime Ministers like Pandit Jawaharlal Nehru, Mrs. Gandhi and Mr. Vajpayee were more than equals (sun around which the planets revolve). And the other Prime Ministers like Morarji, Rajiv Gandhi, Narashima Rao were not more than first among equals (moon among lesser stars). In short, the office of the Indian Prime Minister, like his counterpart in British Parliamentary Practice, is what its holder chooses to make it. That is, in the ultimate analysis, much depends on the charismatic personality of the Prime Minister and the level of acceptance and support he commands from the nation, his party and parliament.

In this connection, we may point out that the Prime Minister of coalition government is virtually a prisoner of circumstances. He holds his office at the pleasure of parties constituting majority for this purpose. What hangs over his head is the fear of any partner's getting out of the coalition. Thus the Prime Minister has nothing else more urgent than to see that there develops no cracks that eventually destroy his government. This is the reason that in Indian democracy, the coalition Prime Minister could not enjoy an amount of power and prestige which a single party Prime Minister like Jawaharlal Nehru or Indira Gandhi attained both in home and at abroad.

**Q. 29.** Describe the relations between the Council of Minister (in the Union Government) and the Indian Parliament.

**Ans.** The Constitution of India has established a Parliamentary system of government in the country on the British model. Therefore, the relation between the Union Council of Ministers and the Indian Parliament is similar to that of the British system. The Supreme Court has also declared, "We have the same system of parliamentary executive as in England and the Council

of Ministers consisting as it does of the members of the legislature is like the British Cabinet; a hyphen which joins a buckle which fastens the legislative part of the State to the executive part.\* Hence, the Constitution of India, unlike the U. S. A. has not made a divorce between the executive and the legislature. In other words, the close correspondence between the Council of Ministers in the Union Government and the Indian Parliament is the essence of our Parliamentary form of Government.

According to the provisions of Indian Constitution, the ministers of the Union Government must be the members of parliament, so the Ministers may be appointed either from the House of the People (Lok Sabha) or from the Council of States (Rajya Sabha). The Constitution also provides that the President of India may appoint a person who is not a member of either House of Parliament as minister of the Union Government. But he has to seek membership of Parliament within 6 months from the date of his appointment. Otherwise, he will have to resign after that period; Further, every minister is entitled to attend the sessions and also to take part in the proceedings and deliberations of the House or Houses of Parliament. But he can exercise his right to vote only in the House of which he is a member.

Article 75 of the Constitution of India clearly states that the Council of Ministers shall be collectively responsible to the House of the People (Lok Sabha). In other words, the ministers are responsible collectively to the Lok Sabha for all policies and activities of the Union Government. We are to note that every minister is bound to abide by the decisions arrived at the Council of Ministers. Otherwise, he shall have to resign. The Ministers work as a unity both inside and outside the Parliament. They sink and swim together. No minister can make any public statement which conflicts with the declared policy of the Union Government.

In India, Parliament has the power to extract information from the ministers of the Union government. The members of parliament may ask questions to the ministers. And the ministers are bound to answer those questions in the interest of the general public. Indian Parliament may also disapprove the policies of the Council of Ministers in the following ways : (i) It may pass a vote of no-confidence or censure. It means that the House of the

people does not like to support the policy of the Council of Ministers. (ii) It may defeat a measure which the Ministry has placed before the House. (iii) It may refuse to pass a Bill introduced by the Ministry and change it in a way not acceptable to the ministers. (iv) The Council of Ministers must resign if a Private Member's Bill is passed against the opposition of the Minister. (v) It may pass a resolution indicating a token cut in the salary of ministers.

By all these methods, the Council of Ministers (in the Union Government) can be made responsible to the Indian Parliament. In short, collective responsibility means that a displeased House of the People can throw the entire Council of Ministers out of office following a vote of no-confidence, passed by the former. Therefore, the Council of Ministers should pursue unified policy on all important questions.

In India, no Bill can become an Act without the approval of Parliament. But the ministers of the Union Government introduce and pilot all important public bill in the Parliament. They influence and control legislation with the support of the majority members in the House. The private members Bills have no chance to become Acts unless the Council of Ministers favour them. So far as the financial system of the Union Government is concerned, we find that the Council of Ministers influences and in turn, is influenced by the Indian Parliament. According to the provisions of the Constitution, the Union Government cannot impose or collect any tax without the laws of Parliament. Similarly, no money can be spent without the sanction of Parliament. But the Parliamentary control over the financial system of the Union of Government is not very effective. As a matter of fact, the Council of Ministers controls the national money. The Council of Ministers introduces money-bills in Parliament. All proposals for taxation and expenditure must come from the Ministers.

In reality, the Council of Ministers guides and controls the Parliament. The Ministers are selected from among the members of the party or an alliance which secures a majority in the House. They cannot go against the policies of the Council of Ministers which belong to itself and has been drawn from it. If the members of the majority party in Parliament refuse to obey the decisions of the Council of Ministers, they may be subject to the disciplinary



action. The Council of Ministers also regulates the time-table of Parliament. It is known to all that three-fourths times of Parliament are reserved for the consideration of the government's bills. Further, the Prime Minister may request the President of India to dissolve the House of the People and to order a fresh election. It is said, "the power of dissolution is a standing threat for the rank and file of the members of the House not to cross swords with the Council of Ministers".

But it is not correct to state that the India the Council of Ministers of the Union Government functions as a dictator. The ministers cannot exercise their powers arbitrarily. They derive their powers and authority from the people. The Ministers always work under the constant fire of criticism of the Opposition. Moreover, the House of the People controls the Council of Ministers through the Committee which is to examine whether the assurance given by the ministers have been implemented or not. Hence, the Union Council of Ministers controls and in turn, is controlled by the Indian Parliament.

**Q-30.** Explain the election procedure of the Vice-President of India. How can he be removed from office? Discuss his powers and functions.

**Ans.** Like the U.S. Constitution, the Constitution of India also provides for the office of the Vice-President in the Indian Union.

#### *Election Procedure :*

According to the provisions of our Constitution, the Vice-President is indirectly elected. He is elected by an electoral college consisting of the members of both the Houses (Lok Sabha and Rajya Sabha) of Parliament. This election is held in accordance with the system of proportional representation by means of the single transferable vote. In this connection, we are to note that the nominated members of both Houses can participate in the elections of the Vice-President of India. Again, in the elections of the Vice-President, the legislators of the lower House (Legislative Assembly) of the State legislature do not have any role to play. The Supreme Court of India cannot declare the election of the Vice-President invalid on the ground that the general election of India has not been completed.

#### *Process of removal :*

The moral tenure of the Vice-President is five (5) years.

However, before completing his term, the Vice-President may be removed from his office by a resolution of the Rajya Sabha passed by a majority of its members and agreed upon by the Lok Sabha. Such a resolution requires 14 days notice to be moved in the Rajya Sabha.

#### *Power and Functions :*

The major functions of the Vice-President include :-

(a) to preside over the sessions of the Rajya Sabha and

(b) to execute and administer the functions of the Republic in the absence of the elected President.

#### *(a) As the chairman of Rajya Sabha :*

Our Constitution clearly states that the Vice-President of India is the ex-officio chairman of the Rajya Sabha. In this respect, his powers, functions and responsibilities are similar to those of the Speaker in the Lok Sabha. That is, the Vice-President presides over the sessions of the Rajya Sabha. No member of the Rajya Sabha can address without his consent. He can ask a member to leave the Sabha if he is disobedient. Again, he declares the result of a bill or resolution. His decision is final in regard to propriety of questions asked by members. He can disallow any question. No bill is deemed to have been passed by the Rajya Sabha unless signed by him. He can exercise casting vote in case of tie. He safeguards rights and privileges of the members of the Rajya Sabha.

#### *(b) As the acting-President of the Republic :*

Under the Constitution of India, the Vice-President officiates as President of the Republic and discharges his functions in the event of death, resignation, or removal of the President. However, the Vice-President can constitutionally officiate as the President of India for six (6) months, within which period the new President has to be elected. Again, when he is called upon to act as the President, he does not perform the duties of the chairman of the Rajya Sabha. As the President of the Republic, he (Vice-President) is entitled to enjoy all the powers, privileges, and safeguards of the President. As for example; he can appoint the Prime Minister and other Ministers, diplomatic representatives, Judges of the Higher Courts,—summon and prorogue the sessions of parliament, give assent to a bill,, make rules and regulations for the good government of the Union Territories, promulgate ordinances

when the Parliament is not in session,—proclaim a state of national or financial emergency—grant pardon to an offender etc. etc.

In our democracy, the role of the Vice-President is not important as we find in his counterpart in the U.S.A. In the U.S. political system, the Vice-President can attend the sittings of the Cabinet. He is integrally connected with the President in the administration of the country. But no such active role does the Indian Vice-President play in our political and constitutional systems. When the President is in office, the Vice-President has only one function, i.e., to discharge the responsibilities as the chairman of the Rajya Sabha.

6

## THE UNION LEGISLATURE— PARLIAMENT OF INDIA

Q. 31. Explain clearly the constitutional relationship between the House of the People (Lok Sabha) and the Council of States (Rajya Sabha) in India.

Or,

Discuss the composition of the Indian Parliament and the constitutional relations between its two Houses.

Ans. The Constitution of India has provided for a bicameral form of legislature. The Central Legislature of India is known as "Parliament". Parliament consists of the President and two Houses. The Lower House is called the House of the People (Lok Sabha) and the Upper Chamber is known as the Rajya Sabha. The President of India is an integral part of the Union Parliament because he summons and prorogues the Houses of Parliament. He has also the power to dissolve the House of the People. No Bill can become an Act of Parliament without the assent of the President.

The House of the People is the popular Chamber of Indian Parliament. It consists of the representatives of the nation. The Constitution provided that the House of the People consists of not more than 547 members of whom (a) 525 members are elected directly by the people of the States on the basis of universal adult franchise, (b) 20 members represent the Union Territories and (c) 2 members are nominated by the President from the Anglo-Indian Community.

Every citizen of India who is not less than 18 years of age is entitled to vote in the elections of the Lok Sabha.

The qualifications for the membership of the Lok Sabha are as follows :

(1) The person must be a citizen of India. (2) The person must not be less than 25 years of age.

The House of the People elects a Speaker and a Deputy Speaker from among its members. The Speaker and in his absence the Deputy Speaker presides over the meetings of the House.

The tenure of the Lok Sabha is five (5) years. It may be dissolved earlier. The period may also be extended by the Parliament during a proclamation of National Emergency.

The Council of States (Rajya Sabha) represents the State rights. It consists of 238 members of the States and the Union Territories elected on the basis of proportional representation by means of the single transferable vote. The remaining twelve (12) members are nominated by the President from amongst person who have special knowledge of practical experience in art, science, literature and social service.

But the principle of equal representation of States has not been followed in the Constitution of India. Uttar Pradesh send 34 members to the Rajya Sabha. But the membership of Jammu and Kashmir is only 4.

A Person may be member of the Rajya Sabha if (i) he is a citizen of India, (ii) he is not less than thirty (30) years of age.

The Council of States is a quasi-permanent body. The members are elected for six years, but one-third of its total members retire after every two years.

The Vice-President of India is the ex-officio Chairman of the Rajya Sabha. The Rajya Sabha also elects a Deputy Chairman from amongst its members.

*The Constitutional relations between the two Houses of Parliament :*

If we analyse the Constitution of India, we find that the House of the People and the Council of States enjoy equal powers in certain respects. In some matters, the House of the People possesses more powers than the Council of States. There are also certain cases where the Council of States stands above the House of the People.

Under the Constitution of India, the House of the People and the Council of States enjoy equal powers on the following subjects :

(1) The powers of the Rajya Sabha and the Lok Sabha are equal in respect of public bills. A public bill may be introduced in either House of Parliament, it cannot be sent to the President for his assent without the approval of two Houses. A public bill passed by one House is sent to the other House for its approval. If it is rejected by the Second House or if it is not sent back to

the originating House within a period of six months, or if there is a dispute between the two Houses with regard to the amendments made on the bill, the President of India may summon a joint session of two Houses to resolve the constitutional deadlock.

(2) Both Houses enjoy equal status in respect of elections and impeachment of the President and Vice-President of India. The elected members of both the Chambers of Parliament participate in the election of the President. The Vice-President is elected by the members (elected and nominated) of both Houses of Parliament. The President and Vice-President can be dismissed by the two Houses of Parliament.

(3) It is not possible to amend the Constitution of India without the consent of both Houses of Parliament. Neither the Lok Sabha nor the Rajya Sabha is entitled to amend the provisions of the Constitution without the approval of the other.

(4) An emergency issued by the President of India is also passed before the two Houses of Parliament. It must be passed by Lok Sabha and the Rajya Sabha in the same procedure.

(5) The Judges of the Supreme Court, the Comptroller and Auditor-General of India are removed by the President on a report of both Houses of Parliament. This report must be passed by a majority of the total membership as well as a majority of not less than two-thirds (2/3) of the members present and voting in each House of Parliament.

(6) The Constitution of India has made no distinction between the House of the People and the Council of States in case of appointment of the Union Council of Ministers. It is true that the Prime Minister usually belongs to the Lok Sabha, but it is also equally true to say that the important ministers are also taken, from the Rajya Sabha.

According to the Constitution of India, in certain cases, the powers of the House of the People are greater than those of the Council of States.

(a) The Speaker of the House of the People has the power to determine whether a bill is money-bill or not.

(b) A money-bill cannot be introduced in the Rajya Sabha. It is introduced in the Lok Sabha. The Rajya Sabha has no power to reject or amend a money-bill. It can delay a money-bill for fourteen (14) days only.



(c) In a joint session, the supremacy of the House of the People prevails over the Council of States because the Speaker of the House of the People presides over the joint session of two Houses. Moreover, the Lok Sabha has a total membership of 547, but the total membership of the Rajya Sabha is only 250. Thus the Lok Sabha has large number of members than the Rajya Sabha.

(d) The House of the People controls the Union Cabinet. For, the Ministers are responsible to the House of the People for their activities. The Ministry must resign if it lacks the confidence of the House. But the Council of State has no power to remove the Cabinet by a vote of censure.

The Council of States is superior to the House of the People because the former has certain special powers which the Constitution has not given to the latter.

(1) The Union Parliament is authorised by the Constitution to make laws on a State-subject in the interest of the nation, if the Council of States passes a resolution to that effect supported by a majority of not less than two-thirds of its members present and voting (Art. 249).

(2) The Parliament of India can make necessary laws for the creation of one or more All-India services common to the Union and the States in the national interest, if the Council of States passes a resolution to the effect (Art. 312).

In spite of its special powers, the Council of States is not at par with the House of the People. The composition of the Rajya Sabha has made its position very weak. Its members are partly elected and partly nominated. Besides, the constituent States do not send equal number of representatives to the Rajya Sabha.

But the Constitutional position of the Council of States should not be underestimated. It exercises a considerable amount of influence over the affairs of the Union Government because of its elderly statement and its quasi-permanent character and also because of the special knowledge and practical experience of the members in legislation.

Our Council of States stands midway between the American Senate and the British House of Lords.

Q. 32. Discuss, in details, the function of the Indian Parliament.

Or,

Critically examine the powers and functions of the House of the People in India.

Ans. According to the Constitution of India, the Union Legislature is called Parliament. It consists of the President and two Houses known respectively as the House of the People or the Lok Sabha, and the Council of States or the Rajya Sabha. We are to note that although there is a bicameral legislature at the Centre, the Constitution of India safeguards the supremacy of the Lok Sabha in matters of legislation and administration.

The main business of the Indian Parliament of the House of the People is to make laws for the good government of the country. But our parliament is not a sovereign law-making body like that of England. For, the scope of legislation of the federal legislature in India is limited by the distribution of powers between the Union and the States. The Parliament of India can make laws on those subjects enumerated in the Union List and Concurrent List. The Union List consists of 99 topics such as defence, foreign affairs, war and peace, posts and telegraphs, currency and banking etc. And the Concurrent List contains 52 items such as civil and criminal procedures, marriage, divorce, bankruptcy and insolvency and so on. The law of Parliament shall prevail if it conflicts with a similar law passed by a State Legislature on the Concurrent List. Besides, the residuary powers belong to the Union Parliament. Under the Constitution of India, Parliament cannot normally legislate on any matter included in the State List. However, it can do so (i) if the Rajya Sabha recommends by at least two-thirds majority that such legislation is in national interest, (ii) if two or more States mutually agree that this should be done for such states and (iii) to implement treaties or international conventions, during emergent periods, Parliament can exercise extensive powers of legislation over State subjects.

Indian parliament has been described as an organ of information. The ministers announce their policies—national and international—to the people through the Parliament. It is the only place where all shades of opinion are reflected. Various Committees are also set up by Parliament to discuss certain problems concerning legislation and suggest remedies for them. Parliament acts as a ventilating chamber by bringing to the notice

of the government the grievances of the people against it. In short, our Parliament serves as a forum of deliberations where ideas and opinions are assessed and hammered into the shape of decisions.

Further, Parliament in India is the maker of the Union Council of Ministers. For, the members of the Central Ministry are taken from parliament. Again, the Union Legislature, particularly the Lok Sabha, is a training centre where men are tested for practical statesmanship. Indian Parliament controls the administration by bringing to light the mistakes of the Union Government by means of questions and adjournment motions. The ministers are bound to answer those questions put by the inquisitive members of parliament. In our parliamentary democracy, the tenure of the ministry depends upon the House of the People or Lok Sabha. It means that the Council of Ministers remains in office so long as it commands the confidence of the Lok Sabha. If the House of the People is dissatisfied with the policies and activities of the ministers, it may pass a vote of no-confidence against them. In that case, the Union Council of Ministers must resign from office.

Another function of our Parliament is to exercise control over the finances of the Central Government. After the budget is prepared by the Cabinet, it is submitted for the approval of Parliament. However, in financial matters, the authority of the Lok Sabha is final. For, the money bills can originate only in the House of the People. And money bill passed by the Lok Sabha, cannot be disapproved by the Rajya Sabha. We are to note that the Union Government has no power to collect taxes or spend money unless the budget is approved by Parliament. Therefore, the Central Legislature has the sole power to determine what new taxes shall be levied and how the revenues received shall be spent by the various departments of government. Moreover, Parliament controls the purse of the nation effectively through several Committees viz, the Estimates Committee, the Public Accounts Committee and the Comptroller and Auditor-General.

The Indian Parliament also performs several other functions. Parliament has the exclusive power to introduce a bill for the amendment of the Constitution. Again, the emergency powers of the President of India are subject to the control of the Parliament. It means that no emergency can be valid after one or two months

unless it is approved by the Union Legislature. Moreover, both Lok Sabha and the Rajya Sabha participate in the elections and impeachment of the President and the Vice-President of India. Further, the Judges of the Supreme Court and the High Courts are removed by the President on the report of the Parliament. Above all, the Parliament may, by law, alter the names and boundaries of states as well as create or abolish the Legislative Councils in States Legislatures.

Q. 33. Discuss the constitutional status of the Parliament of India.

Or,

Is the Indian Parliament a sovereign law-making body ?

Or,

What are the limitations on the sovereignty of the Indian Parliament?

Ans. Like the Constitutions of the U.S.A. and U.K., India has also a bicameral form of legislature. The Central Legislature of India is the Parliament. It consists of the President and the two Houses—the House of the People and the Council of States.

In India, there has been much controversy over the constitutional status of the Parliament: It is a sovereign law-making body like the British Parliament ? Or is it a non-sovereign legislature like the American Congress ?

In India, we have adopted the Parliamentary form of Government on the British pattern. But the sovereignty of Parliament does not exist in India. Our federal legislature is similar to that of the American Congress in this respect.

On the other hand, it has been opined that our Parliament is a sovereign body because it is usually constituted after every five years.

It may be pointed out that these arguments are not wholly correct or wholly incorrect.

In England, the parliament is a sovereign legislature. It possesses unlimited powers in matters of legislation. In other words, it can make or unmake any law. It can also amend the Constitution in the process of ordinary legislation. The judiciary has no power to nullify the unconstitutional legislation.

But the American Congress is a non-sovereign legislature. Under the Federal Constitution of the U.S.A., Congress alone

of the government the grievances of the people against it. In short, our Parliament serves as a forum of deliberations where ideas and opinions are assessed and hammered into the shape of decisions.

Further, Parliament in India is the maker of the Union Council of Ministers. For, the members of the Central Ministry are taken from parliament. Again, the Union Legislature, particularly the Lok Sabha, is a training centre where men are tested for practical statesmanship. Indian Parliament controls the administration by bringing to light the mistakes of the Union Government by means of questions and adjournment motions. The ministers are bound to answer those questions put by the inquisitive members of parliament. In our parliamentary democracy, the tenure of the ministry depends upon the House of the People or Lok Sabha. It means that the Council of Ministers remains in office so long as it commands the confidence of the Lok Sabha. If the House of the People is dissatisfied with the policies and activities of the ministers, it may pass a vote of no-confidence against them. In that case, the Union Council of Ministers must resign from office.

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On the other hand, it has been opined that our Parliament is a sovereign body because it is usually constituted after every five years.

It may be pointed out that these arguments are not wholly correct or wholly incorrect.

In England, the parliament is a sovereign legislature. It possesses unlimited powers in matters of legislation. In other words, it can make or unmake any law. It can also amend the Constitution in the process of ordinary legislation. The judiciary has no power to nullify the unconstitutional legislation.

But the American Congress is a non-sovereign legislature. Under the Federal Constitution of the U.S.A., Congress alone



can make laws on eighteen (18) subjects only. The Supreme Court, may declare a law passed by the Congress as unconstitutional, if it is against the provisions of the Constitution.

According to the provisions of the Constitution of India, our Parliament is both sovereign and non-sovereign.

Parliament of India is a sovereign legislature because it alone can amend the Fundamental Rights of citizens and Directive Principles of State Policy by a majority of two-third members in each House. In this respect, the approval of the State Legislatures is not necessary.

On the other hand, the Indian Parliament is also a non-sovereign law-making body on the following grounds :

(1) parliament cannot make any law which takes away any of the Fundamental Rights of citizens laid down in Part III of the Constitution.

(2) Parliament alone cannot alter the federal provisions of the Constitution. The ratification of the legislatures of half of the constituent states is also required. These provisions include the election of the President, distribution of powers between the Centre and the States etc.

(3) In India, the Supreme Court and the High Courts are empowered to declare the laws of Parliament as null and void if they are against the provisions of the Constitution.

In conclusion, the Parliament of the India is not wholly sovereign. It is also not totally non-sovereign. It is partly sovereign and partly non-sovereign. Therefore, like the Parliament in England, the Indian Parliament is not a sovereign legislature. On the other hand, like the American Congress, our Parliament is not wholly non-sovereign in matters of legislation.

There are certain limitations on the Sovereignty of the Parliament of India.

(a) The President of India has the power to summon and prorogue the sessions of Parliament. Hence, the members of the Parliament have no opportunity to meet if they so desire.

(b) The President may dissolve the House of the People and order a fresh election.

(c) A Bill passed by the two Houses of Parliament is sent to the President for his assent. The President may veto a Bill. The President again can issue an ordinance when the Parliament is not

in session. This also constitutes a serious limitation on the sovereignty of Parliament.

(d) Under the federal structure of India, the Union Parliament cannot generally make laws on a subject included in the State List.

(e) Parliament also cannot make any law which abridges the fundamental rights of citizens.

(f) The President of India is entitled to change the laws of Parliament for the peace and good government of the Union Territories.

Q. 34. What are Public Bills ? How are they passed in the Union Parliament of India ?

Or,

Describe the different stages through which a Public Bill may become an Act of Indian Parliament.

Or,

Describe the process of ordinary law-making in the Indian Parliament.

Ans. The main function of the Parliament of India is to make laws for peace and good government of the country. There are two kinds of bills which are enacted by the Union Parliament. They are : (a) Public Bill, (b) Money Bill. A public bill is that bill which deals with general interests of the country.

The different stages which are required for passing a public bill may be discussed below :

*Introduction and First Reading :* According to the Constitution of India, a public bill may be introduced either in the House of the People or in the Council of States. But the important public bills are generally introduced in the House of the People. A minister or a private member of the House has the right to initiate a public bill. A private member must give a notice to the Speaker for the introduction of a bill. It must also be published in the Gazette. At this stage, there is no debate. The mover of the bill, if he desires, may give a short speech describing the aims and objects of the bill. The introduction of the bill is also known as the First Reading of the bill.

*Committee Stage :* Then the mover of the bill may propose one of the following courses :

(a) The bill may be taken into consideration or, (b) The bill may be sent to a Select Committee or, (c) The bill may be

referred to a Joint Committee of two Houses of Parliament, or, (d) The bill may be circulated among the people.

The bill may be referred to a select Committee of the House where it originates. The members of the Select Committee are appointed from among those members of the House who have special knowledge on the subject. It is the duty of the Committee to scrutinise the bill thoroughly and carefully. The Committee may also propose amendments on the bill. The Committee then submits a report to the House.

**Report Stage :** At this stage, the report of the Committee is considered by the House. The Committee's report is circulated among the members. If the report is accepted by the House, it goes to the next stage.

**Second Reading :** This is the most important stage in the life of a bill. Here the bill is discussed in details and clause by clause. The members may move amendments on the bill. The bill is modified at this stage. The proposed amendments may be accepted or rejected by the House. It may be pointed out that 99% of Private Member's bills are killed at this stage. The bill is then passed or rejected by majority of the members present and voting.

**Third Reading :** This is a formal stage in the passing of an ordinary bill. No substantial amendments can be made on the bill. Only Verbal amendments are made. Discussion is also limited. No bill is generally rejected in the third reading. The bill is then passed by majority votes.

**Other House : Similar procedures :** After a public bill has been passed, a copy of it is sent to other House for its approval. The other House passes the bill through the same process. If (a) the bill is rejected by the other House, or, (b) the two Houses have disagreed as to the amendment made on the bill or, (c) the bill is not sent back to the originating House within period of six months, then the President of India may summon a joint session of two Houses for the purpose of deliberating and voting on the bill.

**President's Assent :** When a public bill is finally passed by the House, it is sent to the President for his assent. The President may give his assent to the bill, or he may withhold his assent from the bill, or he may return the bill to the originating House for reconsideration. If the bill is passed again by both Houses of Parliament, the President cannot withhold his assent.

**Q. 35.** What are money Bills in respect of the Indian Union under the Constitution? Describe fully the procedure laid down in the Constitution for the passing of Money Bills by the Union Parliament.

*Or,*

What is a Money Bill. Carefully describe the procedure in introducing and passing a Money Bill in the Union Parliament.

**Ans.** According to Art. 110 of the Constitution of India, a bill is deemed to be a money bill if it contains all or any of the following provisions; (a) the imposition, abolition, alternation of regulation of any tax; (b) the borrowing of money by the Government of India; (c) The custody of the Consolidated Fund and the Contingency Fund of India; (d) the appropriation of money out of the consolidated Fund of India; (e) the declaring of any expenditure to be expenditure charged upon the Consolidated Fund of India; (f) the audit of the accounts of the Union or of a State.

But a bill is not deemed to be a money bill simply because it provides for the imposition of fines or penalties or simply because it provides for the imposition, abolition, or regulation of any tax by any local authority.

The decision of the Speaker of the House of the People is final on the question whether a particular bill is a money bill or not. It cannot be questioned by the Council of States or by the Supreme Court of India.

When a money bill is transmitted to the Council of States or when it is sent to the President for his assent, it must be signed by the Speaker. Certain points must be noted in connection with the passing of a money bill.

(1) The ministers are only entitled to introduce a money bill in Parliament. The private members of Parliament do not possess this power. (2) No money bill can be originated in Parliament without the recommendations of the President of India. (3) All proposals for taxation and expenditure must come from the ministers.

Let us now discuss the process of passing a money bill in Indian Parliament.

According to the provisions of the Constitution of India, a money bill is introduced in the House of the People (Lok Sabha).

No money bill can originate in the Council of States (Rajya Sabha). So far as the money bills are concerned, the supremacy of the House of the People prevails over the Council of States, though it is placed before both Houses of Parliament. In India, the process of passing of money bill in Parliament differs from that of passing a public bill. The members of the Lok Sabha may criticise the financial policy of the government. Amendments are made on the bill. All expenditures are voted except those expenditures which are charged upon the Consolidated Fund of India. With a majority support behind it, the ministry can easily pass the budget.

When a money bill is passed by the House of the People, It is sent to the Council of States for its ratification. The Constitution of India states that the Rajya Sabha has no power to reject or amend a money bill. It can only make recommendations. But these recommendations may be accepted or rejected by the House of the People. The Council of States can delay a money bill for fourteen (14) days only. If the Council of States does not return the money bill to the House of the People within the period of fourteen days, it is considered to have been passed by both the Houses of Parliament.

In this connection, it may be pointed out that the British House of Lords can delay a money bill for a period of one (1) month only. The American Senate possesses the power of amending the contents of the money bill except its title.

The Council of States in India cannot delay a money bill for more than 14 days.

After a money bill has been finally passed by the House of the People and the Council of States, it is presented to the President of India for his assent. It is a convention that the President does not withhold his assent from a money bill passed by Parliament.

Q. 36. Discuss the Committee System of the Indian Parliament.

Ans. In modern times, the work of legislature has become complicated. Parliament has been overburdened with work. It has neither time nor thought to deal with all kinds of bills efficiently. Therefore, the Legislature makes use of the Committees. The Committees play a vital role in the field of legislation. They consider and examine the bills referred to them. Committees

consist of expert legislators. It can give its valuable opinion to the legislature.

Indian Parliament, like its counterpart in other democratic countries, performs the business of legislation through several Committees. Our Parliamentary Committees have been formed on the British model. In spite of this, Committees of Indian Parliament have departed from the British system and drifted towards Congressional ones, but have not attained the status of the latter.

In India, a large number of Parliamentary Committees has been set up to help both Houses to discharge the law-making functions in a speedy and efficient manner. The House of the People (Lok Sabha) alone has twelve such Committees. The Important Committees of Indian Parliament may be discussed below :

(1) *Business Advisory Committees* : It consists of 15 members. They are appointed by the Speaker for one year. The leaders of the different political parties are actively associated with this Committee. The Speaker acts as the Chairman of the Committee. The main business of this Committee is to control the time-table of the House. The Committee may also make recommendations as to how much time should be given for the discussion of the various stages of a bill. The Business Advisory Committee submits an unanimous report to the House which the latter also adopts in toto.

(2) *Select Committees* : These Committees are constituted when a motion that the said bill be referred to a Select Committee is passed by the House. The actual number of Select Committees is not fixed. The Committees are formed as and when required by the house for the examination of bills. The members of the Select Committees are elected or appointed by the House. The Speaker selects a member of the House to act as the Chairman of the Committee. The Committee examines the bill clause by clause. It may make substantial amendments on the bill. The Committee then submits its report to the House.

(3) *Joint Committees* : These Committees help the House to perform the business of legislation smoothly. The joint Committee consists of members of both House of Parliament. It avoids duplication of legislation and thereby saves time of Parliament.



(4) *Committees on Private Member's bill* : This Committee is composed of 15 members. The Speaker nominates the members for a period of one year. The Deputy Speaker is the Chairman of Committee. The main function of the Committee is to examine those bills which are introduced by the Private Members of the House. Further, the Committee sorts out such bills according to their contents, urgency and importance.

(5) *Committee on Petitions* : The Speaker appoints the members of this Committee for one year. Ministers are not its members. It is formed at the commencement of the House. The Committee examines the petitions submitted to the House by the People. The Committee takes proper evidence in each case and can suggest remedies to the House.

(6) *Committee on Privileges* : This Committee is composed of 15 members. They are nominated by the Speaker. The Committee examines all cases of breach of privileges of the House. It then submits its report to the House.

(7) *Rules Committee* : It, too, consists of fifteen members appointed by the Speaker for one year who is its Chairman. According to the Constitution of India, each House of Parliament makes rules for regulating the conduct of its business. The Committee examines those rules and can also make recommendations for changes in them.

(8) *Committee on Subordinate Legislation* : It, too, consists of 15 members. They are nominated by the Speaker for one year. Ministers are not allowed to serve in this Committee. The Committee works through various Sub-Committees. The main function of the Committee is to examine whether the delegated legislation is properly exercised in accordance with the rules and regulations conferred by the Constitution.

(9) *Estimates Committee* : The Estimates Committee has been set up in 1952. It consists of 30 members. They are elected for one year. The chief function of the Committee is to consider the estimates or expenditure submitted to the Lok Sabha. It carefully examines the estimates of the different departments of Government. It can suggest recommendations for economy. However, the Committee does not deal with the general policy of the Government relating to the proposed expenditure. The Committee then submits recommendations to the House.

(10) *Committee on Government Assurance* : This Committee of Lok Sabha has no parallel in the British House of Commons. It is an Indian invention. This Committee is composed of 15 members appointed by the Speaker for one year. The main business of the Committee is to see whether the assurances given by the ministers from time to time have been implemented. It also submits its report to the House.

(11) *Committee on Absence of Members from the sitting of House* : The Speaker appoints for one year the members (12) of this committee. The main function of the Committee is to examine the leave applications of those members of the House who have been absent for 60 days or more.

(12) *Public Accounts Committee* : It is an important Committee of Indian Parliament. To Pylee, "The Public Accounts Committee is the twin brother of the Estimates Committee." The Public Accounts Committee consists of 22 members of whom 15 are elected from Lok Sabha and 7 from Rajya Sabha. Their tenure is one year only. The Committee must have to satisfy itself that the public money has been spent by the different departments in accordance with the laws of Parliament. It also examines the report of the Comptroller and Auditor-General. The Committee in its report to the Lok Sabha points out the irregularities of different ministers and suggests remedial measures.

In India, the Council of States (Rajya Sabha) has also several Committees, viz., Business Advisory Committee, Committee on Petitions, Committee on Privileges, Rules Committee, Select Committee on Bills etc. The composition and functions of these Committees are more or less similar to those of the House of the People (Lok Sabha).

To conclude, most of the Committees are concerned with the internal problems of the Houses. The Select Committee, however, deals with the law-making business of parliament. The estimates Committee and Public Accounts Committee control the government expenditure.

Nevertheless, the parliamentary Committees in India play an important role in the field of legislation. Committees relieve the Parliament of its burden. They also, save time and give expert opinion on the subject. Hence the Committees have been rightly described as "little legislature".

Q. 37. How does the Indian Parliament exercise control over the financial system of the Union Government ?

Or,

Discuss the nature of control exercised by Parliament over the financial of the Union.

Or,

Discuss the nature and extent of the financial control exercised by the Parliament over the Government of India.

Ans. India has accepted the basic principles of a welfare State. The activities of the Union Government have been greatly increased. The Central Government has to raise revenue and to spend money for the welfare of the country. Under the democratic structure of India, parliament should control the finance of the government. Otherwise, our democracy will be a failure. It should be the duty of the Central Legislature to see how revenues are raised and how they are spent on public purposes.

In India, the financial system of the Union Government may be divided into parts, viz., revenue and expenditure.

So far as revenue is concerned, Art. 265 of the Constitution of India clearly states that the Union Government is not entitled to impose or collect any tax without the laws of parliament. If a tax is levied on any person illegally, he may move the court to seek relief.

On the other hand, Act. 266(3) says that no money can be appropriated out of the Consolidated Fund of India without the sanction of Parliament. Therefore, the Central Government has no power to spend the national purse except by authority of law.

Moreover, Parliament controls the finance of the Union Government effectively through the Estimates Committee, the Public Accounts Committee, the Comptroller and Auditor-General of India.

*The Estimates Committee* : The Estimates Committee has been set up in 1952. It consists of 30 members. They are elected from among the members of the House of the People for one year. The main function of the Committee is to consider the estimates of expenditure submitted to the Lok Sabha. It carefully examines and scrutinises the estimates of the different departments of government throughout the year. It may make recommendations

for economy. But it has no power to alter the general principles relating to the proposed expenditures. But alternative policies may be suggested by this Committee.

*The Comptroller and Auditor-General of India* : The Comptroller and Auditor General of India is an important officer under the Constitution of India. He is the guardian of the national purse. He is appointed by the President of India for 6 years. He has to see that the public money is not spent from the Consolidated Fund of India without the approval of Parliament. The Comptroller and Auditor-General is also empowered to audit the accounts of the Union Government. He then submits his annual report to the President relating to the accounts of the Central Government. This report is laid before both the Houses Parliament by the President for consideration.

*The Public Accounts Committee* : It is also an important Committee through which the Union Parliament exercises control over the financial system. The Public Accounts Committee consists of 22 members—15 from the House of the People and 7 from the Council of States. They are elected from among the members of the respective Houses for one year only. The Committee shall have to satisfy itself that the Public money has been spent by the different ministries in accordance with the laws of Parliament. It also considers and examines the report of the Comptroller and Auditor-General. The Public Accounts Committee then submits a report to the House of the People pointing out the defects and irregularities of ministries and suggesting remedies.

From the foregoing discussion, it may be said that Parliament can effectively control the financial system of the Union Government. It possesses the power of criticising the financial policy of government. Moreover, the Estimates Committee, the Comptroller and Auditor-General and the Public Accounts Committee also help the Parliament for exercising control over the public purse.

But in reality, the control of Parliament over the Union financial system is not very effective. As a matter of fact, the Cabinet controls the national money. This is due to the following reasons :—(a) A money-bill cannot be introduced in the Parliament except on the recommendations of President. Under the parliamentary government of India, the President's

recommendations generally means the recommendations of the Cabinet headed by the Prime Minister. (b) There are some expenditures which cannot be voted by Parliament. These are the salaries and allowances of the President, the Judges of the Supreme Court. These expenditures are charged upon the Consolidated Fund of India. (c) The ministers are only entitled to introduce a money bill in the Parliament. No private member of Parliament has the power to do so. (d) All proposals for taxation and expenditure must come from the ministers. (e) The budget is very complicated. It is not intelligible to the ordinary members of Parliament. It also indirectly helps the Cabinet to control the financial system.

Therefore, it is not the Parliament but the Cabinet which controls the Union finances of India. The Cabinet with the majority members in both House of Parliament can easily pass financial measures. The members of the party in power always help the Cabinet in this matter.

Q. 88. Describe the powers and position of the Speaker of the House of the people (Lok Sabha).

Or,

Discuss the position and functions of the Speaker of the Lok Sabha. Do you think that impartiality is the most precious attribute of the Speaker? State your reasons.

Ans. In India, the chief parliamentary officer of the House of the People (Lok Sabha) is the Speaker. The Speaker's office carries great honour and dignity. He performs his functions with complete independence and impartiality.

The Speaker of the House of the People is elected by the House from among its members as soon as a new House of the People is formed after the general election. But in practice the Speaker is the nominee of the majority party in the House of the People. The Speaker is elected for the life of the House i.e., five years. But he may be removed from his office earlier by a resolution of the House. Such a resolution requires fourteen day's notice and the resolution must be passed by majority of all the members of the House of the People present and voting.

One of the distinctive features of the office of the Speaker is that he does not vacate his office even when the House of the

people is dissolved. He may continue to remain in office until a new Speaker is elected by the House.

The importance of the Speaker is seen from the powers and functions that he performs and exercises. Our Speaker possesses almost the same powers as the Speaker of the British House of Commons. The Speaker presides over the meetings of the House. The primary duty of the speaker is to control debate. It is also his responsibility to see that parliamentary time is used properly. He may adjourn the House. If there is no quorum, he may suspend the meeting of the House. No member of the Lok Sabha has the power to speak without his consent. The members of House of the People address the Speaker only. He interprets the rules of procedure of the House.

In the house of the People, voting takes place under the direction of the Speaker. It is his duty to declare the final result. The Speaker is not entitled to vote in the first instance. But he may exercise a casting vote in case of a tie. The decision of the Speaker is final on the question whether a particular bill is a money bill or not. The Speaker decides whether a member of the House of the People should be allowed to speak in his mother tongue. The Speaker also presides over the joint sitting of both Houses of Parliament summoned by the President of India. He does not allow any member to hamper the dignity of the House. Lastly, he is the guardian of the rights and privileges of the Members—from the Prime Minister down to the ordinary members of the House of the People. It is again the Speaker who maintains a close contact between the President and the House of the People.

At the emergent conference of the Speaker of India, held at Delhi, it has been pointed out that the Speaker should not do anything which makes it impossible for the ministry to seek a vote of confidence of the House. The Speaker cannot claim the inherent right to override the House because the legislature is supreme, not the Speaker. Again, the Speaker has no power to review the constitutionality of any ministry. In other words, he has no power to declare a ministry legal or illegal. The first and foremost duty of the Speaker is to enable the House to function at all times. He should discharge his duties independently and impartially.



So far as the position is concerned, our Speaker stands midway between the British Speaker and the American Speaker.

The English Speaker gives up his party colours as soon as he is appointed or elected. He does not attend any party meeting or conference. He has no politics. The American Speaker, on the other hand, does not cut off his relation with his party in the Congress. He is an active politician. The Speaker in the U.S.A. always helps his party members inside the Congress.

In India, the speaker is not independent and impartial. He does not "wear the white flower of a neutral political life". The Speaker's office, is hotly contested. The convention—Once a Speaker, always a Speaker—has not developed in India.

It has been pointed out that the Speaker of the Lok Sabha may be the member of a political party. But he must not actively participate in the activities of the party to which he belongs. The office of the Speaker in India should be occupied by men of outstanding personality and impartiality. In short, the Speaker of the House of the People should be a true symbol of the dignity and independence of the House as well as the guardian of the rights and privileges of its members.

**Q 39.** What are the constituent parts of the Indian Parliament? Explain the role of each of them in the passing of an Act.

**Ans.** The Union Legislature of India is called Parliament. It is a bicameral legislature. The constituent parts of the Indian Parliament are the President and the two Chambers—

House of the People and the Council of States. It is clearly laid down in Art. 79 of the Constitution of India that the Union Parliament consists of the President and two Houses to be known respectively as the House of the People (Lok Sabha) and the Council of States (Rajya Sabha).

The House of the People is the Lower Chamber of our Parliament. It consists of about 547 members. They are elected directly on the basis of universal franchise. The House of the People represents the national interests.

The Council of States, on other hand, is the Upper House of Parliament. It consists of 250 members. They are partly elected and partly nominated. The rights of constituent states are reflected through the Council of States (Rajya Sabha).

The President of India is an integral part of our Parliament.

He can also dissolve the House of the People before the expiry of its term of five (5) years. No bill can become an act without the approval of the President.

Each of the constituent parts of Parliament plays an important role in the passing of an Act.

Both the House of the People and the Council of States enjoy equal powers in the introduction and passing of a public bill. A public bill may be introduced either in the Lok Sabha or in the Rajya Sabha. Neither the House of the People nor the Council of States can pass a public bill without the consent of the other. A public bill passed by one House is transmitted to the other House for its approval. If (i) the bill is rejected by the other House, or, (ii) the two Houses have disagreed as to the amendments made on the bill, or, (iii) the bill is not sent back to the originating House within a period of six months, the President of India may summon a joint session of the Lok Sabha and the Rajya Sabha to resolve the deadlock. But the critics point out that in joint sitting, the supremacy of the Lok Sabha prevails over the Rajya Sabha, because the Lok Sabha has a larger number of members (547) than the Rajya Sabha (250).

The House of the People has the supreme authority with regard to money bill. A money bill cannot be originated in the Council of States. It is introduced in the House of the People. The Speaker has the sole power to decide whether a bill is a money bill or not. The Council of States Cannot reject a money bill passed by the House of the People. It may suggest recommendations. But it is up to the Lok Sabha to accept or reject those recommendations. The Council of States can delay a money bill for fourteen (14) days only. If it is not ratified by the Council of States within this period, it is considered to have been passed by both Houses of Parliament.

After the public bills and the money bills are finally passed by both the Houses of Parliament, they are presented to the President for his assent. The President may give his assent to a public bill or he may withhold his assent from it. Or he may return the bill to the originating House for reconsideration. If the bill is again passed by both the Houses of Parliament, the President cannot withhold his assent from the bill. It is a convention that the President gives his assent to a money bill passed by the Parliament.

Q. 40. Critically discuss the composition and functions of the Council of States in India.

Or,

Describe the composition and function of the Rajya Sabha.

Ans. The Constitution of India envisages a bicameral form of legislature at the Centre. The Union Legislature is called Parliament. Art. 79 of the Constitution provides that Parliament consists of the President, the House of the People and the Council of States. The Second Chamber of Parliament is popularly known as the Council of States or Rajya Sabha.

The Council of States is the Upper House of Indian Parliament. It represents the State rights. To put in other words, the Council of States consists of representatives of the States of the Indian Union. The Rajya Sabha consists of 250 members. Article 80 states that the Rajya Sabha consists of (a) not more than 238 members of the States and of the Union Territories and (b) 12 members to be nominated by the President.

The representatives of each state are not elected directly by the people, but they are elected by the elected members of the Legislative Assembly of the State. The election is held by secret ballot and in accordance with the system of proportional representation by means of the single transferable vote. Under this system, the voter cast his vote for one candidate only but he may indicate his preferences in case of other candidates also. As regards the representation of Union Territories, the Constitution leaves the method of selection of representatives to be determined by the laws of Parliament. As a result, in some Union Territories, the members are indirectly elected, while in other Union Territories, they are nominated by the President of India.

The remaining twelve members of the Rajya Sabha are nominated by the President from among well-known personalities in the realm of art, science, literature and social services.

But the American principle of equal representation of States has not followed in India. Uttar Pradesh sends 34 members to the Rajya Sabha. But the membership of Jammu and Kashmir is only 4. Besides, in the U.S.A., the members of the Senate are directly elected by the voters on the basis of universal adult franchise. But, in India, the election to the Council of States is indirect.

Art. 84 provides that a person to be elected as a member of

the Council of States must be a citizen of the India and that he must be thirty-years of age. On the other hand, a person is not qualified or being chosen a member of the Council of States (a) if he holds any office of profit under the Government of India or the Government of any State; (b) if he is of unsound mind; (c) if he is an undischarged insolvent.

The Council of States is a permanent body and is not subject to dissolution. One-third of its members retire after every second year. The normal term of a member of the Council of States is six years.

According to Art. 89 of the Constitution, the Vice-President of India is the ex-officio Chairman of the Council of States. The members of the Council of States elect another member to be its Deputy Chairman. However, when the Vice-President acts as, or discharges the functions of the President, the duties of the Chairman are performed by the Deputy Chairman.

In federal Constitutions, the Second Chambers usually representing the federating units have an important role to play. In the frame-work of the Indian Constitution, the Council of States possesses significant powers and in certain respects even enjoys equality with the House of the People.

The Rajya Sabha is an indispensable part of the Union Parliament. So, it has a decisive role in legislative business of the Government of India. The Council of States enjoys equal powers with the House of the People in matters of ordinary legislation. It can introduce a public bill. No public bill can become an act unless it is passed by the Rajya Sabha. In case of deadlock between the two Houses, a joint meeting of the Lok Sabha and the Rajya Sabha can be summoned by the President to iron out the differences. The Rajya Sabha makes laws on the Union List. The important subjects of this List are :- Defence, foreign affairs, trade and commerce etc. It can also legislate subjects included in the Concurrent List and its laws shall prevail over the laws of the State Legislature if the former comes into conflict with the latter. The Council of States is also empowered to legislate on residuary powers. The Rajya Sabha can also make laws on State Subjects in the national interest or to implement international agreements.

The Council of States has been described as an organ of information. The ministers announce their policies—national and

international—to the people through the Council of States. It is the only place where all shades of opinion are reflected. Various Committees are also set up by the Rajya Sabha to discuss certain problems concerning legislation and suggest remedies for them. The Council of States like the House of the People is a Ventilating Chamber by bringing to the notice of the government the grievances of the people. In short, the Council of States serves as a forum of deliberations where ideas and opinions are assessed and hammered into the shape of decisions.

The Council of States helps in the formation of the Union ministry. Some members of the Council of Ministers are required to be taken from the Rajya Sabha. According to the Constitution, the Prime Minister may be appointed from among the members of the Council of States. The Rajya Sabha can exercise a great control over the ministry through interpellations, financial cuts and adjournment motions. But the Rajya Sabha has no power to remove the Council of Ministers by a vote of no-confidence.

The Rajya Sabha has no great role in finance. It cannot introduce a Money Bill. But the Council of States has the power to delay a money bill for 14 days and also to criticise the financial policy of the Government of India. Again, the ministry cannot levy taxes unless the budget gets the approval of both the Council of States and the House of the People. The Rajya Sabha also represents the Public Accounts Committee which is an effective instrument at the disposal of parliament to check the government in the financial irregularities.

Along with the Lok Sabha, the Rajya Sabha, can pass a resolution for the impeachment of the President and the Vice-President of India. It can also make an address to the President for the removal of the Judges of the Supreme Court or the State High Courts.

Like the House of the People, the Council of States may also move a resolution to amend the Constitution of India. No provision of the Indian Constitution can be amended unless it is passed separately by the Rajya Sabha by its two-thirds votes. Besides, the members of the Council of States can participate in the elections of the President and Vice-President of India.

The Council of States has some special powers which the House of the people does not possess. Parliament can make laws

on a State Subject in the national interest if the Rajya Sabha passes a resolution to that effect supported by two-thirds members. Again, the Union Legislature can make laws for the creation of one or more, All-India services common to the Centre and the States if the Council of States passes a resolution to that effect.

Like the Lok Sabha, the Rajya Sabha also makes laws in conformity with the provision of the Constitution. For, the Supreme Court has the power to review them.

But the constitutional position of the Council of States should not be underestimated. It exercises a considerable amount of influence over the affairs of the Union Government. Because of its elderly state men and its quasi-permanent character and also because of the special knowledge and practical experience of the members in legislation. Our Council of States stands midway between the American Senate and the British House of Lords.

**Q. 41.** Describe the composition, powers and functions of the House of the People.

*Or,*

Give brief account of the organisation and functions of the Lok Sabha.

**Ans.** In India, the Union Legislature is called Parliament. It is bicameral in nature. In other words, it has two Chambers. The Lower House is known as the House of the People or the Lok Sabha and the Upper House is called the Council of States or the Rajya Sabha. The House of the People or the Lok Sabha is a democratic Chamber. It represents the nation.

**Composition :** The Lok Sabha is the first or Lower House of Indian Parliament. It consists of not more than 547 members of whom (a) 525 members are directly elected by the people of the States. For the purposes of election, the whole country has been divided into several territorial constituencies without crossing the boundaries of the States. Every citizen of India who is 18 years of age is entitled to take part in the elections of the Lok Sabha ; (b) 20 members represent the Union Territories. The members are chosen in such a number as Parliament law may prescribe. In the Union Territories, the representatives are the direct choice of the people, (c) Not more than 2 members from the Anglo-Indian Community can be nominated by the President to the Lok Sabha if he is satisfied that the Anglo-Indian Community is not adequately



represented therein. Provision has also been made for the reservation of seats in the Lok Sabha for the Scheduled Castes and Scheduled Tribes.

The Constitution of India requires the following qualification for becoming a member of the Lok Sabha :—The person must be (a) a citizen of India, (b) not less than 25 years of age. Besides, the Union Parliament may also prescribe other qualifications for the purpose.

The normal tenure of the Lok Sabha is five years. However, during the operation of a proclaimed National Emergency, it can be extended for one year at a time.

The House of the People elects a Speaker and a Deputy Speaker from among its members. The office of the Speaker carries prestige and dignity. He presides over and conducts the meetings of the House.

**Powers and Functions :** In India, we have a federal type of government. Thus, like the American Congress, our Parliament is not a sovereign law-making body. This is the reason that the House of the People cannot enjoy absolute power in matter of legislation. However, the Lok Sabha is more powerful than the other House, viz., the Council of States. The powers and functions of the Lok Sabha are as follows :

**Legislative Power :** The Lok Sabha is the chief legislative organ. It has a great share in law-making. The Constitution of India empowers the Lok Sabha to make laws on the Union List and the Concurrent List. The important items of these Lists are : Defence, foreign affairs, war and peace, currency, education, marriage and divorce etc. Along with the Rajya Sabha, the Lok Sabha has the power to legislate on residuary subjects. The House of the People may enact laws concerning the subject of the State List—If the Rajya Sabha passes a resolution to the effect in the national interest, or if there is a proclamation of National Emergency in the country, or if two or more State Legislatures make such a request. The Lok Sabha has equal powers with the Rajya Sabha in regard to a public bill. No public bill can be passed without the approval of the Lok Sabha. If there is a constitutional deadlock between the two Houses, the President may summon a joint sitting to resolve the conflict.

(2) **Financial Power :** The Lok Sabha has a Vast financial

power. A money bill can be introduced in Lok Sabha only. The Rajya Sabha cannot reject or amend a money bill passed by the Lok Sabha. The Rajya can delay a money bill for 14 days only. The Government of India cannot levy taxes or spend money unless the budget is passed in the Lok Sabha. It also controls the financial policies of the Union Government through the Estimates Committee and the Public Accounts Committee.

(3) **Executive Power :** The Lok Sabha has a decisive role in the formation of the Union Council of Ministers. For, Most of the members of the Cabinet are taken from the Lok Sabha. The Prime Minister also belongs to the House of the People. The Ministers are collectively responsible to the Lok Sabha for the policies and activities of the Central Government. The ministers must answer all questions put by the Opposition parties in Parliament. The Lok Sabha may dismiss a ministry by a vote of non-confidence.

(4) **Electoral Power :** The members of Lok Sabha take part in the elections of the President and the Vice-President of India.

(5) **Judicial Power :** The Lok Sabha along with the Rajya Sabha may pass a resolution concerning the impeachment of the President and the Vice President of India. It can also make recommendations to the President for the removal of the Judges of the Supreme Court.

(6) **Constituent Power :** The Lok Sabha has the power to initiate the Constitution Amendment Bill. No part of the Constitution can be amended without the formal assent of the House of the People.

(7) **Miscellaneous Power :** The Lok Sabha may create a New state or alter the boundaries of existing States. It also plays an important part in the retention or abolition of second Chambers in the State Legislatures. The Lok Sabha must make laws in conformity with the provisions of the Indian Constitution. For, the Supreme Court has the power to review them.

Q. 42. Discuss the privileges and immunities of the members of Parliament of India.

Ans. Under the constitutional law and in the arena of Parliament, the expression "privilege and immunity" signifies certain special or exceptional rights of Lok Sabha or Rajya Sabha or its individual members which are generally accepted as necessary

to the exercise of their constitutional functions. To be stated precisely, parliamentary privilege is the sum of peculiar rights enjoyed by each House (the Lok Sabha or the Rajya Sabha) collectively as constituent part of Parliament, and by members of each House individually without which it would be impossible for either House to maintain its independence of action. The privileges attached to the Lok Sabha or the Rajya Sabha not because of any exalted position of the members, but these are considered absolutely essential to regulate its own proceedings in a disciplined, efficient and undisturbed manner and in order to indicate its authority and dignity.

Privileges may be classified into two groups :—(a) those which are enjoyed by the members individually and (b) those which belong to each House (Lok Sabha or Rajya Sabha) of Parliament collectively. We are to note that our Parliament has not yet codified its privileges. In fact, the privileges rest on conventions and they may be ascertained by the practice and law that is in force in England.

(a) The Privileges enjoyed by the members individually are :—  
(i) Freedom of speech, (ii) Freedom from arrest and (iii) Exemption from attendance as jurors and witnesses. Let us now explain them.

(i) *Freedom of speech* : According to the constitution, the members of Parliament enjoy freedom of speech and expression. No member can be taken to task anywhere outside the four walls of the House (e.g. court of law) or cannot be discriminated against for expressing his/her views in the House and its Committees. The basic idea of extending this freedom being the necessity that every member would put forward without fear or favour his/her arguments for or against any matter before the House. However, the Rules of procedure for the conduct of Business in the Houses of Parliament put certain restrictions on this freedom. That is, a member's freedom of speech should be in conformity to the rules framed by the House to regulate its internal procedure. Again, no member shall be liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, proceedings. Furthermore, the privilege of freedom of speech does not mean an unrestricted licence of speech. For example, our Constitution forbids discussion in Parliament on the conduct

of judges except on a motion for their removal. In this connection, it may be pointed out that in India, there have been clashes between freedom of speech as guaranteed to the members of parliament and fundamental rights as given to the people under Article 19 (1) (a) of the constitution.

(ii) *Freedom from Arrest* : The members of Parliament also enjoy freedom from arrest. From this freedom it is understood that no such member shall be arrested in a civil case 40 days before and after the adjournment of the House (Lok Sabha or Rajya Sabha and also when the House is in session. It also means that no member can be arrested within the precincts of the Parliament without the permission of the House to which he/she belongs. When a member of the House is arrested or detained, the authority concerned should immediately inform the speaker or the Chairman regarding the reasons for such arrest. A member can be arrested outside the four walls of the House on criminal cases under the Preventive Detention, NSA, ESMA, POTA or any other such Act.

(iii) *Freedom of attendance as witnesses* : The members of Parliament enjoy freedom from attendance as jurors or witnesses. A member cannot be summoned, without the leave of the House, to give evidence as a witness while Parliament is in session.

(B) *Privileges of the House collectively* : There are some other privileges also which the House (Lok Sabha or Rajya Sabha) collectively enjoys. These are :—(i) *the right to publish debates and proceedings* : Though by convention, the Parliament does not prohibit the press to publish its proceedings, yet technically the House has every such right to forbid such publication. Again, while a member has the privilege of freedom of speech in Parliament, he has no right to publish it outside Parliament. Anyone violating this rule can be held responsible for any libelous matter it may contain under the common law rules. (ii) *the right to exclude strangers* : Each House of Parliament enjoys the right to exclude strangers (non-members or visitors) from the galleries at any time and to resolve to debated with closed doors. The punishment may take the form of admonition, reprimand, or imprisonment; (iii) *the right to punish members and outsiders for breach of its privileges* : In India, the Parliament has been given punitive powers to punish those who are adjudged guilty of

contempt of the House, such a contempt can be committed by the members of any House or any outsider. When a member of the House is involved for parliamentary misbehaviour and/or commits contempt he/she can be expelled from the House. Whether contempt of the House has or has not been committed, the matter is examined by committee of privileges, which is set up by the speaker and (iv) *the right to regulate the internal affairs of the House* : In Indian Union, each House is a High court of Parliament. Therefore, the House has the right to regulate its internal affairs. A member of the House is free to say whatever he likes subject only to the internal discipline of the House or the Committee concerned.

Parliamentary privileges have become a complex problem, but these days it is being increasingly realised—that privileges are essential for elected representatives of the people and the members of Parliament and such press as well as outside public must respect these in true sense and spirit. Our constitution stipulates that Parliament may, from time to time, define its privileges by law. No law, however, has so far been enacted by Parliament to define the privileges and immunities of each House and its members and the committees thereof.

Q. 43. Discuss the position of the Lok Sabha of the Indian Parliament.

Ans. Indian parliamentary system is based on the British model. But it has been modified to meet special requirements of the Indian political system, especially federalism and large size of the country. Thus the Fathers of our constitution have unanimously adopted the principle of bicameralism at the centre as the basic ingredient of federalism.

In India, the Union Legislature is known as Parliament and is the pivot on which the entire machinery of the government revolves. According to *Article 79* of the constitution, the Indian Parliament consists of the President and two Houses known as the House of the People and the Council of States. The House of the people is commonly known as the lower chamber of Parliament. In fact, that is not correct. Such a nomenclature suggests nothing except recalling the practice prevailing in Great Britain. The House of the People is called Lok Sabha in Hindi designated by the first Speaker of the House Mr. G. V. Mavalankar.

The House of the People or the Lok Sabha is the popular chamber and is the direct choice of the people. Its 543 elected members are directly elected on the basis of adult universal franchise. And the remaining two [2] nominated by the President of the Republic represents the Anglo-Indian community. As its name is Lok Sabha, it protects and promotes the interests of the people of the Indian nation.

In Indian federal cum parliamentary political system, the House of the People is the centre of legislative activity. Along with the Rajya Sabha, the House of the People has the power of legislation over the union, concurrent and, also the residuary subjects. The Lok Sabha has the constitutional power to legislate on the state items to implement international agreements, or on a request made by two or more states. Besides, in matters of legislation in national interest or the creation of All-India Services; the Lok Sabha may or may not accept the resolutions moved by the Rajya Sabha. And lastly, to iron out the differences over an ordinary bill in the joint session, the Lok Sabha has a predominant position because of its numerical strength.

It is through the performance of its financial functions that the House of the People enjoys real supremacy over the Council of States. According to the Constitution, all Money bills must originate in the Lok Sabha. The granting of expenditure is entirely vested in the House of the People. Demands are submitted to the Lok Sabha and it alone has the power to give assent to them. Moreover, the Rajya Sabha can delay a money bill for 14 days only. Above all, the Presiding officer of the Lok Sabha has the sole power to define and determine the contents of a money bill. The public Accounts Committee which checks and controls the expenditures of different ministries and departments is also chaired by an important member of the opposition in the Lok Sabha.

A very important function of the Lok Sabha is that of controlling the union executive, i.e. the Ministry and its functionaries. This is done in two ways : */a/* the Lok Sabha can seek information from the union Ministers on any matter through questions and supplementary questions, adjournment motions, call attention motions etc. This device keeps the government alert and on its toes; and */b/* the Union Council of Ministers is collectively



responsible to the Lok Sabha for the policies and actions of the government. The Union Ministry remains in office so long as it enjoys the confidence of the popular House, i.e., the Lok Sabha. The House of the people can force the Government to resign if either it passes a vote of no-confidence against the Ministry or if it rejects the finance bill. Thus, the vigilance of the members of the Lok Sabha keeps the Union Council of Ministers responsive to public opinion and prevents it from acting in an arbitrary manner.

Lok Sabha's other functions include :—[a] *Constituent* :—The House of the people plays a great role in the amendment of our Republican Constitution. The Constitution Amendment Bill may be introduced in the Lok Sabha, or no such bill can be passed without the approval of its two-thirds members. [b] *Electoral* :—The Lok Sabha plays a vital part in the election of country's top dignitaries, e.g., the President and the Vice President. Besides, the Lok Sabha has exclusive power to elect the Speaker and the Deputy Speaker of the House. and [c] *Judicial* :—The Lok Sabha has a great share in the removal of our Republic officials—the President and Vice President, the Judges of the Supreme Court and the High Courts, the Comptroller and Auditor General etc.—on grounds of proved misbehaviour or incapacity.

The Lok Sabha has been described as a ventilating forum where attention is drawn to the public grievances and redress sought. Again, the Lok Sabha is called the public meeting and also the best debating club of our country. Debates in the House of the People are the life-breath of India's parliamentary political system. They serve a very useful purpose and compel the Union Ministry to keep its policies public. The Lok Sabha is the only place where all shades of opinion are reflected. Lastly, the Lok Sabha is the best training ground where the talented people are discovered. It is a place where men are tested for practical statesmanship and where they are sifted and selected.

From the above discussion, it seems to us that the House of the People is the master of the Union Council of Ministers. The Lok Sabha exercises enormous control and powers over the Union Ministry and the Bureaucracy. But in reality, in our parliamentary political system also, the Lok Sabha cannot effectively

control the Union Council of Ministers. Rather it is controlled by the Ministry. For example Indian parliamentary practice, whether in a single party or a coalition government with a stable majority, policy is formulated by the Union Ministry and it may be and very often announced in the House of the People and not by the House. The supremacy of the Ministry prevails in legislative, executive and financial spheres. All important public bills are introduced in the Lok Sabha by the Ministers. Without the consent of the Ministry, no measure can be piloted in the House. The same is true in case of finance where the control of the Union Ministry is almost complete. The cabinet prepares the budget, presents it to the Lok Sabha and gets it passed with the support of its majority members. In one word, the Union Council of Ministers has usurped all the powers and functions of the Lok Sabha. The Lok Sabha has become a tool in the hands of the Ministers. Its main function is to register the will of the council of Ministers. Thus the inner strength [position, role and effectiveness] of the House of the People has considerably declined. It is not as effective as it should have been or it has not succeeded as a watchdog of administration. There cannot be any doubt that the Lok Sabha does not at the moment monitor and guide the working of the Union government the way it should. In one word, the basic health of the Lok Sabha has deteriorated sharply. Thus the secret of the success of our parliamentary democratic government lies in the control of the House of the People [Lok Sabha] by the Council of Ministers at the Centre.

On realistic analysis, the workings of the Lok Sabha reveal the fact that the manner in which the members of the house conduct themselves is to a great extent responsible for erosion in the role, relevance or its effectiveness in our political system. Frequent uproars and bedlam in the Lok Sabha has become a daily routine rather than an exception to the rule, making it impossible for the House to discharge its legitimate functions and play a meaningful role in the national affairs. The lung power, it seems, has begun to override brain power. It has been estimated that every minute in the Lok Sabha and the Rajya Sabha costs the nation Rs. 15,700 or Rs. 9,42,000 per hour. Further, a source in Parliament said that the unruly scenes, chass and disruptions have led to a 10.60 percent loss of time during the Twelfth Lok Sabha.

But we should not forget that—as the microcosm of the Indians, our Lok Sabha has consistently reflected their feelings, hopes and aspirations. Its achievements in the various fields—political, social and economic—have been considerable. Stalwarts have been among the speakers of the Lok Sabha. The traditions laid down by the House of the people are of extremely high order. However, there is change over the years in the character, complexion and style of functioning in the Lok Sabha because the citizens more rooted in India have been entering the Lok Sabha and the rules of the game have also been necessarily changing subtly.

## 7

## GOVERNMENT IN THE STATES

Q. 44. Describe the powers and position of the Governor of an Indian state.

Or,

Discuss the role of the Governor in the administration of a State.

Ans. Under the Constitution of India, the machinery of the State Government is the same as that of the Central Government. Like the Union Government, the State Governments are also formed on the parliamentary pattern. So the chief executive of a State, that is the Governor, resembles the President of the Union Government. Like the President, the Governor is also a constitutional ruler, a nominal figure. He is not a real functionary. Generally speaking, the Governor acts on the advice of the Council of Ministers.

The Governor is appointed by the President of India. He holds office during the pleasure of the President. Under the Constitution of India, the Governor of a State possesses wide powers—executive, legislative, financial and judicial. Let us now discuss the powers of the Governor of an Indian State.

[1] Executive :— The Executive power of the State is vested in the Governor. He exercises this power either directly or through officers subordinate to him. All executive actions of the State are taken in the name of the Governor. He also makes the necessary rules for the more convenient transaction of the business of the Government of the State. The Governor appoints the Chief Minister of the State. Other ministers are also appointed by the Governor on the advice of the Chief Minister. The ministers including the Chief Minister hold office during the pleasure of the Governor. He has also the power to appoint the higher officers of the State including the Advocate-General and the members of the State Public Service Commission. He has also a share in the appointment of the Judges of High Court. He is responsible for the administration of the welfare schemes of the scheduled castes

and other backward class. He may appoint a minister for this purpose. The Governor has the constitutional right to know the decisions of the Council of Ministers relating to the administrative affairs of the State and the proposals for legislation. But like the President of the Union, the Governor has no diplomatic or military power.

[2] *Legislative* :—The Governor is an integral and indispensable part of the State Legislature. In some States, the State Legislature consists of the Governor and one House, the Legislative Assembly, while in other it consists of the Governor and the two Chambers known as the Legislative Assembly and the Legislative Council. The Governor possesses the powers to summon and prorogue the Houses of the State Legislature. He can also dissolve the Lower House—the Legislative Assembly—before the expiry of its term.

The Governor has been authorised by the Constitution to deliver an address to the State Legislature at the commencement of the first session of each year. He has also the power to send message to the State Legislature. The Governor has to nominate one member to Legislature. The Governor has to nominate one member to Legislative Assembly from the Anglo-Indian Community and also members to the Legislative Council [where it exists] from among the persons who have acquired special knowledge in art, literature, science, social service and co-operative movement.

In a State, a public bill cannot become an Act without the approval of the Governor. A bill passed by the State Legislature is presented to the Governor for his assent. The Governor may give his assent to the bill. Or he may withhold his assent from the bill. If the bill is again passed by the House or Houses of the State Legislature. The Governor is to give assent to the bill. He may also reserve certain bill for the assent of the President.

When the State Legislature is not in session, the Governor may issue an ordinance. It has same force as the law of the State Legislature. But it must be placed before the Legislature when it assembles again. If it is approved by the State Legislature, it will cease to operate after six weeks of the date of meeting of the State Legislature.

[3] *Financial* :—The Governor has also financial powers. No

money-bill can be originated in the State Legislature without the recommendation of the Governor. In every year, the budget is laid before the State Legislature by the Governor. No proposals for taxation or expenditure can be made without the approval of the Governor.

[4] *Judicial* :—The Governor also exercise judicial powers. He has the power to grant pardons, reprieves or remissions of punishment to any person who has been convicted by courts of law. He has also a great share in the appointment of the judges of the subordinate courts.

Besides, the Governor of a State also enjoys discretionary powers. As for example, the Governor of Assam can exercise the administration of the tribal areas independently of his ministry. Again, the Governor of a State when he is appointed as the administrator of an adjoining Union Territory may exercise his function without the advice of the Council of Ministers.

It is true that Governor is constitutional ruler and a nominal figure. But he is not a magnificent cipher or a rubber stamp. The Governor enjoys wide powers in executive, legislative and financial spheres. He can exercise certain powers in his own discretion. The Governor has the power to advise, to encourage and to warn the ministry irrespective of their party colours. The office of the Governor depends upon the personality and ability of the person who occupies it. If the Governor is a man of strong personality, he can easily influence his ministry. A weak and lazy Governor, on the other hand, will be influenced by the ministry. He will then exercise the functions according to the directions issued by the Council of Ministers.

Q. 45. Discuss the relationship between the Governor and his Ministers. In what respect does the principle of Cabinet responsibility in the State differ from that in the Union ?

Or,

Discuss the role of the Governor in an Indian State and indicate his relations with the Council of Ministers.

Or,

Discuss the constitutional relationship between the Governor of a state and his Council of Ministers. Can the Governor act independently of the Ministers ? If so how and when ?

Ans. The Constitution of India has accepted the Parliamentary



form of Government both at the Union and in the States. Like the President of the Union, the Governor of a State is a normal figure. The Council of Ministers monopolises the real powers of the State.

According to the provisions of the Constitution, the executive power of a State is vested in the Governor. And this power is exercised by him either directly or through officers subordinate to him. The Constitution also provides for a Council of Ministers with the Chief Minister as its head to aid and advise the Governor in the exercise of his functions. The Governor appoints the Council of Ministers including the Chief Minister of the State. They hold office during the pleasure of the Governor.

The Governor has been vested with wide powers, he dominates the executive, legislative, financial and judicial spheres. But under the parliamentary structure of India, the Governor shall have to exercise these powers with the aid and advice of the Council of Ministers. Therefore, the Governor is not a real functionary. The actual power belongs to the Council of Ministers headed by the Chief Ministers. The Governor cannot go against the will of the people voiced through the ministers responsible to the Legislative Assembly of the State. The office of the Governor carries honour and dignity. The Governor always acts on the advice of the ministry. There are no powers which he can exercise at his own will. Therefore, the powers of the Governor generally mean the powers of the Council of Ministers. The Courts also opine that the Governor is a constitutional head of the State. He is bound to follow the advice of the Council of Ministers. His position is like that of the King or Queen in England.

But the Constitution has authorised the Governor to exercise certain functions at his discretion. In other words, the Governor is empowered to perform some function without the advice of the ministers. Again, the decisions of the Governor in the exercise of the discretionary powers in final. It cannot be questioned in court of law. Here lies the difference between the Governor and the President. The Constitution has not given any discretionary power to the President. Thus "the principle of Cabinet responsibility in the State differs from that in the Union". The Governor of Assam can exercise the administration of the tribal areas without the advice of his popular ministers. Further, the Governor of Assam

has the power to settle disputes that arise between the Government of Assam and the District Council in connection with the share of mining royalties. Again, the Governor of State when he is appointed as the administrator of an adjoining Union territory, is entitled to exercise the functions independently of his Council of Ministers. The Governors of Gujarat, Sikkim and Andhra Pradesh also have special responsibilities.

The Governor may also use his discretion in certain other cases and he can dispense with the advice of Council of Ministers.

*Firstly*, if a party does not secure a majority in the legislature, the Governor may appoint an outsider as the Chief Minister of the State.

*Secondly*, the Governor may dismiss a ministry without the verdict of the legislature to which the ministry is responsible.

*Thirdly*, the Governor may or may not dissolve the Legislative Assembly of the State.

*Fourthly*, he may veto a bill passed by the State Legislature. His veto is absolute.

*Fifthly*, the Governor may reserve a bill for the consideration of the President.

*Sixthly*, the Governor has the right to know the administrative affairs of the State and proposals for legislation. He can call for any information which the ministry is bound to furnish.

*Seventhly*, the Governor may advise the President to proclaim an emergency in the State if he is satisfied that the machinery of the State is not carried on in accordance with the provisions of the Constitution.

*Lastly*, the Governor has the right in skipping over certain portion of the speech which he is required to deliver on the opening day of the new Assembly.

When the Governor exercises his discretionary powers, he acts as an agent of the Union Government. The Central Government controls the State through the Governor. But in other matters, the Governor is bound to accept the advice of the Council of the State.

It has been suggested that the President of India, under Art. 143 of the Constitution, should seek the opinion of the Supreme Court on the issue of Governor's discretionary powers so that the

constitutional and legal interpretation of the matter should become clear to all concerned.

But the Governor is neither a magnificent cipher nor a rubber-stamp. The Constitution has vested wide powers in the hands of the Governor. He also enjoys discretionary powers. As the executive head of the State, it is the duty of the Governor to advise, encourage and warn the Council of Ministers irrespective of the political party to which he belongs. He is the chief agent and the adviser of the President. The Governor maintains a close relationship between the Central Government and the State Governments. It may be said that the proper relationship between the Governor and his Council of Ministers depends upon the personality of the Governor. If the Governor is a man of towering personality, he can easily influence the ministry. But a weak and lazy Governor will be guided and influenced by the Ministers.

Q. 46. Discuss the constitutional position of the Governor of an Indian State in relation to the President of India. Would you advocate the abolition of the office of the Governor?

Or,

Discuss the constitutional position of the Governor of an Indian State with special reference to his relation with the Union Executive.

Ans. According to the Constitution of India, there is a Governor in each State. He acts as the head of the State. The Governor occupies a pivotal position in name only. He cannot enjoy real powers indeed. He is appointed by the President of the Union for five years. The Governor holds office during the pleasure of the President. The President or the Union Executive controls the day-to-day administration of the State through the Governor because the Governor acts as an agent of the President. He maintains a close contact between the Centre and the State. The Governor is to see that the policies of the Union Government are executed properly. The Governor may advise the President to declare a breakdown of the constitutional machinery in the State if he is satisfied that the Government of the State is not carried on in accordance with the provisions of the Constitution. He also authorised by the Constitution to reserve a bill passed by the State Legislature for the consideration of the President. The Governor

may give his assent to the bill or he may withhold his assent therefrom. He may be also seek advice from the President before issuing an ordinance.

The position of the Governor as an agent of the Union Government carries down much influence to the activities of the State Government. As an agent of the President, he finds himself in a better position to influence the affairs of the State. The Governor always tries to impose the intention of the Union Government on the executive of the State. He cannot exercise any power against the wishes of the Centre because he holds office during the pleasure of the President. In normal times and in ordinary affairs of the State, the Governor does not interfere with the work of the popular ministers. But in abnormal times and in important matters of the State, the Governor may be called upon by the Union executive to work in such a way as to face the time and the issue for the interest of the States. The Constitution empowers the Governor to exercise certain powers in his discretion. Here also the Governor is to act under the directions of the Union Government. In practice, the Governor can have no discretion of his own except what the Union executive wants him to do under certain circumstances. It seems that in other matters, the Union executive has no power to supervise the affairs of the State. Although the Governor is a nominal executive, but his position is meant to be a unifying force between the Union Government and the State Government.

Under the parliamentary democracy of India, the Governor is a constitutional figurehead. He is also the ceremonial head of the State.

Theoretically speaking, the Constitution has vested the executive, legislative and judicial powers in the hands of the Governor. But, in reality, all these powers are exercised by him in accordance with the advice of his Council of Ministers. Therefore, the Council of Ministers monopolises the real power of the State. Some say that the Governor of an Indian State is a magnificent cipher and a rubber-stamp. He has no effective power. Hence, the office of the Governor should be abolished. It is a costly luxury in a poor country like India. The only function of the Governor is to act an agent of the President when the latter proclaims a failure of constitutional machinery in the State. It has

been said that there is no function which the Governor can exercise in his discretion. He always acts on the advice of the responsible ministers.

But the Governor is not a rubber-stamp as it seems to be. He exercises a considerable amount of influence over the affairs of the State. He may also use his discretion in certain matters.

Public opinion is not in favour of the abolition of the office of the Governor. The Parliamentary Government requires a nominal executive head. The Governor holds this position. He has the right to advise, encourage and warn the ministry. He may also influence the decisions of the ministry. But he should adopt a non-partisan attitude in the affairs of the State. Therefore, the office of the Governor should not be abolished.

Q. 47. "The chief Minister is the real ruler of his State".—  
Discuss.

Or,

Discuss fully the position of the Chief Minister in relation to the Council of Ministers and the Government in a State.

Analyse the position and powers of the Chief Minister of an Indian State.

Ans. The Constitution of India provides for the establishment of the parliamentary or the cabinet form of government both at the Centre and in the States. As a result, the powers and position of the Chief Minister in a constituent State corresponds to those of the prime Minister of the Union Government. Like the Prime Minister, the Chief Minister is a real functionary. He occupies a unique position in the Constitutional system of the State Government. The Chief Minister may be described as the cornerstone of the arch of the cabinet system as it obtains in a constituent State of the Indian Union.

In India, the office of the Chief Minister is based on the constitutional law. According to Art. 163 [1] of the Indian Constitution, there shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions. The Chief Minister is not only the head of the real executive of the State Government, but he is also the leader of the majority party in the State Legislature.

Let us now discuss the powers and functions of the Chief Minister of an Indian State.

In a constituent State of India, the Council of Ministers is the real executive and the Chief Minister is its leader. The Chief Minister is central both to the life and death of the Cabinet. Under Art 164 [1] of our Constitution, the Chief Minister is appointed by the Governor. The Governor has little choice in this matter because he has no alternative but to appoint the leader of the majority party in the Legislative Assembly as the Chief Minister of the State. Other Ministers are appointed by the Governor on the advice of the Chief Minister. The Chief Minister has the power to summon, prorogue, and preside over the meetings of the Cabinet. He co-ordinates and supervises the activities of the different departments. He has also the right to control the working of every department of his government. The Chief Minister usually consults his colleagues on all important problems of the States. If any minister disagrees with the Chief Minister, he shall have to resign. But the whole ministry will fall if the Chief Minister resigns.

The Chief Minister is the adviser of the Governor. He is the bridge between the Council of Ministers and the Governor of the State. He advises the Governor in the appointment and removal of the ministers, the Judges of the High Court and other important officers of the State Government. According to the Constitution, the Council of Ministers hold office during the pleasure of the Governor. Critics interpret "pleasure of Governor" as "pleasure of the Chief Minister". If the Governor is advised by the Chief Minister to dismiss a minister, the Governor would exercise his pleasure to dismiss the minister. It is the duty of the Chief Minister to communicate to the governor all important decisions of the Council of Ministers relating to the administrative affairs of the State Government and proposals for legislation. Again, he may advise the Governor to summon and prorogue the State Legislature. The Chief Minister has also the power to advise the Governor to dissolve the Legislative Assembly and to order a fresh election.

The Chief Minister is also the recognised leader of the State Legislature. In the Assembly, he makes policy statements on behalf of the Cabinet. He has to see that the government bills are passed in original form. If the State Legislature goes against him, he has to resign with his colleagues.



Therefore, the Chief Minister of a State occupies a place of pre-eminence in the constitutional and government system of the country. His primary duties surround the Cabinet. It is said, "Matters of exceptional importance ought to be brought to his attention before they are discussed in the Cabinet and any difference that may arise between any two ministers should be submitted to him for decision. He has a right to expect, for example, to be consulted about the filling of the highest posts in the permanent civil service." Some say that the Chief Ministers is the *primus inter pares*, i.e. chief among equals. Others point out that he is only the first among equals. It may be said that under our Cabinet system of government, the Chief Minister is not merely the *primus inter pares*, but he is something more. As the Chief Minister is called the First Minister, he is bound to answer to the Governor and also to the people. The office of the Chief Minister carries dignity and prestige. In a constituent State of the Indian Union, the office of the Chief Minister depends upon the personality, ability and leadership of the person who occupies this august office.

Q. 48. Explain how the Council of Ministers is formed in a state in India. Discuss the relation between the Council of Ministers and the State Legislature.

Or,

Explain how the Council of Ministers is formed in a State in India. What is its relation with the State legislature?

Ans. The Constitution of India envisages a parliamentary form of government both at the Centre and in the States. It is modelled on the British system.

In an Indian State, the Governor is said to be the nominal executive. The actual administration of a constituent state in India is carried on by the Council of Ministers with the Chief Minister at the head, it has a constitutional status. For, Art. 163 [1] of the Constitution of India provides for a Council of Minister headed by the Chief Minister to aid and advise the Governor in the exercise of his functions.

According to the letters of the Constitution, the appointment of the Chief Minister is to be made by the Governor himself but in practice, it is not the case. The Governor formally appoints the leader of the majority party in the Legislative Assembly as the

Chief Minister of the State. However, the Chief Minister may also belong to the Legislative Council [where it exists]. All other ministers are appointed by the Governor on the advice of the Chief Minister. The ministers hold office during the pleasure of the Governor. They are required to be members of State Legislature.

The number of members of the Council of Ministers in a state has not been fixed by the constitution. It is left to be determined by the Chief Minister himself. But the State council of Ministers has three categories of Ministers, viz., [a] the Cabinet Ministers, [b] the Ministers of State and [c] the Deputy Ministers. However, the expression "the State Cabinet" has not been mentioned anywhere in our written Constitution. In reality, the Governor of State always acts on the advice of the Cabinet Ministers. In this connection, we are to note that in the Council of Ministers of the States of Bihar, Orissa and Madhya Pradesh, there must be a minister in charge of the welfare of the scheduled castes and backward classes.

In India, the relation between the Council of Ministers and the state Legislature is similar to that of the Union Government. To put in other words, in every State of India we have the same system of parliamentary executive, as at the Centre and the Council of Ministers consisting, as it does, of the members of the legislature is like the Union Cabinet, a hyphen which joins, a buckle which fastens the legislative part of the State to the executive.

According to the provisions of the Indian Constitution, the State Council of ministers must be the members of the State Legislature. However, the Governor may appoint a person who is not the member of the State Legislature as a minister of the government of the State. But he has to seek the membership of either House of the State Legislature within a period of six months from the date of his appointment. Otherwise, he shall have to resign after that period. Every minister is entitled to attend the sessions and also to take part in the proceedings and deliberations of the House or Houses of the State Legislature. But he can exercise the voting right only in the House to which he belongs.

Article 164 [2] of the Indian Constitution clearly states that the

Council of Ministers is collectively responsible to the State Legislative Assembly. It means that the Ministers are accountable collectively to the Legislative Assembly for the policies and activities of the State Government. They work as a unit inside the State Legislature. The ministers sink or swim together. In this connection, we are to note that the Governor can exercise certain matters in his discretion from which the advice of the Council of Ministers is excluded. And in those matters, the ministry has no responsibility to the State Legislature. Therefore, "the principle of Cabinet responsibility in the State differs from that in the Union."

In a constituent State of India, the Legislature has the power to extract information from the ministers of the State Government. The members of the State Legislature may ask questions to the ministers. The State Legislature may also disapprove the policies of the Council of Ministers in the following ways : [a] The Legislature may pass a vote of nonconfidence or censure. It means that the Legislative Assembly does not like to support the policy of the State Council of Ministers. [b] The State Legislature may defeat a measure which the Ministry has placed before it. [c] The Council of Ministers must resign if a private member's bill is passed against the opposition of the Ministry. [d] The Legislature may pass a resolution indicating a token cut in the salary of the ministers.

So, the Council of Ministers can be made responsible to the State Legislature. In short, collective responsibility means that a displeased Legislative Assembly can throw the entire Council of Ministers out of office following a vote of no confidence passed by the former. Thus the Council of Ministers should pursue unified policy on all important questions pertaining to the government of an Indian State.

In reality, under the Indian parliamentary practice, the State Council of Ministers can effectively check the activities of the State Legislature. The ministry dominates the executive, legislative and financial spheres. As for example, most of the bills are introduced in the State Legislature on behalf of the State Cabinet. The Private Member's Bills have no chance to become Acts unless the Council of Ministers favour them. The legislative control over the financial system of the State Government is not

effective. All proposals for taxation and expenditure must come from the ministers. The State Council of Ministers also regulates the time-table of the Legislature.

To conclude ; the Council of Ministers guides and controls the State Legislature. It has become a tool in the hands of the ministry. In practice, the Legislature cannot act against the wishes of the ministers. However, it does not mean that the Council of Ministers in an Indian State functions as a dictator. The ministers cannot exercise the governmental business of the State arbitrarily. They always work under the constant fire of criticism of the Opposition. Hence, the Council of Ministers controls and in turn, is controlled by the State Legislature.

Q. 49. State the functions of the Legislative Councils in India and the elements composing them.

Or,

Explain the organisation and functions of the Legislative Council in the States.

Ans. In India, the organisation of the executive is same in all States. As for example, the executive of each state consists of the Governor and the Council of Ministers. But the constituent States of India have not adopted the same principles in the formation of their legislatures. According to the provisions of the Constitution, the legislature of a State consists of the Governor and one House or two Houses. Where there are two Chambers in the legislature of a State, one is known as the Legislative Assembly [Lower House] and the other is called the Legislative Council [Second Chamber]. Where there is only one House, it is known as the Legislative Assembly. Bihar, Uttar Pradesh have both the Legislative Assembly and the Legislative Council. But Assam, Kerala have only one Chamber i.e. the Legislative Assembly.

The Constitution of India provides that the Legislative Council of each State consists of not more than one third  $[1/3]$  of the total members of the Legislative Assembly of that State but not less than forty [40] members.

The members of the Legislative Council are partly elected and partly nominated, it may be said that five-sixth  $[5/6]$  of the total members are elected indirectly. And the remaining one-sixth  $[1/6]$  are nominated by the Governor of the State. The elected

members are elected on the basis of proportional representation by means of single transferable vote. The organisation of the Legislative Council is as follows :

[a] One-third  $[1/3]$  of the total members of the Legislative Council are elected by electorates consisting of the members of the Corporations, Municipalities, Zilla parishad and Anchalik Parishads or Panchayat Samities.

[b] One-third  $[1/3]$  of the total members of the Legislative Council are elected by member of the Legislative Assembly from among persons who are not its members.

[c] One-twelfth  $[1/12]$  of total members of the Council are elected by electorates consisting of person residing in the State and who are graduates of three years standing.

[d] One-twelfth  $[1/12]$  of total members are elected by the persons engaged in teaching for at least three years in secondary schools.

[e] The remaining members of the Legislative Council are nominated by the Governor from amongst persons who have acquired special knowledge or practical experience in art, science, literature, social service and co-operative movement.

The qualifications for the membership of the Legislative Council are as follows : A person [a] must be a citizen of India, [b] must be thirty [30] years of age and [c] must be a voter for any constituency of the Legislative Assembly.

The Legislative Council is a quasi-permanent body. The members are elected or nominated for six [6] years. One third of the total members retire every second year.

The Legislative Council elects two persons as Chairman and Deputy Chairman from among its members. The Chairman and in his absence the Deputy Chairman presides over the meetings of the Council.

The Legislative Council is a weak Chamber. It has no effective powers. It stands below the legislative Assembly, so far as the powers and position are concerned.

A public bill may be introduced in either House of the State Legislature. A public bill passed by the Legislative Assembly is sent to the Legislative Council for its approval. If the bill is rejected by the Legislative Council, or if it is not returned to the

Legislative Assembly within a period of four months, or if the two Houses have disagreed with regard to the amendments made on the bill, then the bill is considered to have been passed by both the Houses. On the other hand, if a public bill passed by the Legislative Council is not accepted by the Assembly, the bill is dead for the session.

The Legislative Council has practically no control over the money bills. No money bill can originate the Legislative Council. It cannot amend or reject a money bill. It can delay a money bill for fourteen days only.

The Council of Ministers of the State is responsible to the Legislative Assembly. The Ministry must resign if it lacks the confidence of the Legislative Assembly. No such power has been given to the Legislative Council. But the Legislative Council has the power to criticise the policies and activities of the Council of Ministers.

The Legislative Council possesses the power to discuss the Constitutional amendment bill relating to the federal provisions of the Constitution such as the election of the President, distribution of powers between the Centre and the States.

The report of the State Public Service Commission as well as the report of the Comptroller and Auditor-General relating to the accounts of the government of the State are laid before both the House of the State Legislature. Like the Legislative Assembly, the Legislative Council also has the power to consider and examine those reports.

Q. 50. Would you be justified in stating that the Legislative Council in an Indian State is redundant and should be abolished ?

Or,

Do you justify the existence of Upper Houses in some of the States in India ?

Or,

"Legislative Councils in Indian States should be abolished"—Discuss. State your reasons fully.

Or,

"Second Chambers in Indian States are a Constitutional necessity". Do you agree ? State your reasons fully.



Or,

Discuss the case for and against the establishment of Second Chambers in the states of India.

**Ans.** There has been a controversy among the political thinkers and statesmen of our country over the constitutional status of the Legislative Councils of States. The scholars have disagreed about the utility or disutility of the Second Chamber of State in India. Some say that the State Legislature should consist of two Chambers, while others point out that there should be a unicameral legislature in each State. The members of the Constituent Assembly could not arrive at any unanimous decision on this subject.

At present, out of the twenty eight constituent States of India, five States have bicameral legislatures. And the remaining States possess a unicameral legislature each. The Legislative Council does not exist in the following States—Assam, Gujrat, Kerala, Orissa, Rajasthan, West Bengal, Tamil Nadu, Punjab, Andhra Pradesh etc.

The arguments in favour of the abolition of the Legislative Council in an Indian State are discussed below :

(a) The Legislative Council has no effective power. It can delay a public bill for four months only. The Council cannot introduce a money-bill. It has no power to reject or amend a money bill. It can only delay a money-bill for fourteen (14) days only. Moreover, the State Council of Ministers is not responsible to the Legislative Council. Therefore, Legislative Council has no effective power to check the Legislative Assembly. Further, the very existence of the Legislative Council depends upon the Legislative Assembly. Thus the Legislative Council has become a secondary Chamber. It does not even enjoy the position and prestige of the British House of Lords.

(b) According to the provisions of the Constitution of India, the Governor has the power to return a public bill to the Legislative Assembly for its reconsideration. Thus the Assembly may again find an opportunity to discuss the bill carefully. Public opinion may also be formed and expressed on the bill by this time. So, it is not necessary to have a Legislative Council. Besides, the Centre also controls the Assembly through the Governor in various ways. Therefore, the Legislative Council is practically useless.

(c) Some say that Legislative Council is a luxury in a State. India is an underdeveloped country. It is over-burdened with taxation. Therefore, we should not waste any money on the creation and maintenance of the Legislative Council. On the Other hand, it can be spent for public utility services like health, education etc. It has been pointed out by a member of the Legislative Council in West Bengal that the Government may save, a huge amount of money a year by abolishing this powerless Chamber.

(d) The composition of the Legislative Council makes its position very weak. Its members are partly elected and partly nominated. They have no common interests. The members differ both in principles and in activities.

There are some scholars who want to retain the Legislative Council in State. Their arguments are as follows :

(i) It is true that the Legislative Assembly is a popular Chamber. Its members are directly elected on the basis of universal adult suffrage. But the critics also point out that the Legislative Council in an Indian State is a constitutional necessity because the voting rights have been given to the ignorant and illiterate People. They are not capable of electing the fittest persons. Hence, there should be a Legislative Council in each State to put an effective check on the activities of the Legislative Assembly. The Legislative Council should consist of those persons who are educated and who possesses wise judgment.

(ii) The Legislative Council may check the hasty and illconsidered legislation. The Legislative Assembly may be swayed by emotion. It has an innate tendency to become tyrannical. If there is a Legislative Council, it may carefully examine and scrutinise the bills passed by the Legislative Assembly.

(iii) In an Indian State, the Legislative Council is necessary for the representation of minorities and other professional groups. These groups may not be adequately represented if there is only the Legislative Assembly. According to the Constitution, one-sixth of the total members of the Legislative Council are elected from among the teachers and graduates residing in the State. Thus, the Legislative Council protects their interests.

(iv) According to the provisions of the Indian Constitution, the members of the State Council of Ministers must be the members

of the State Legislature. In every State there are some persons who are always unwilling to take part in the elections. But their services are absolutely essential in the interests of the State. They may be nominated to the Legislative Council by the Governor.

(v) The constitutional provision for the creation or abolition of the Legislative Council in a state is not permanent. It may be changed without amending the Constitution. Art. 169 lays down that Parliament may by law provide for the creation or abolition of Legislative Council in a State if the Legislative Assembly of that State passes a resolution to that effect. This resolution must be supported by a majority of the total membership of the Legislative Assembly and by majority of its two-thirds members present and voting. The Legislative Councils have been abolished from the states of West Bengal, Andhra Pradesh, Punjab, Tamil Nadu etc.

In conclusion, it may be pointed out that the Legislative Council of an Indian State is not so weak and useless as it appears to be. It exercises a considerable amount of influence over the legislative affairs of the State because of its elderly statesmen and its quasi-permanent-character.

**Q. 51. Discuss the procedure for passing Money-Bills in a State Legislature of India.**

*Or,*

**What is a Money-Bills ? Describe the procedure followed in passing a Money-Bill in a State Legislature in India.**

**Ans.** According to Art. 199 of the Constitution of India, a bill is deemed to be a money-bill if it contains all or any of the following matters :

(a) The imposition, abolition, alteration or regulation of any tax ; (b) the regulation of the borrowing of money by the State ; (c) the custody of the Consolidated Fund and the Contingency Fund of the State ; (d) the declaring of any expenditure to be charged upon the Consolidated Fund of the State.

But a bill is not considered to be a money-bill simply because it provides for the imposition of fine or penalties; or simply because it provides for the imposition, abolition of any tax by any local body.

The decision of the Speaker of the Legislative Assembly is final on the question whether a bill is a money-bill or not. It cannot be questioned in a court of law.

When a money-bill is transmitted to the Legislative Council or when it is sent to the Governor for his assent, it must be signed by the speaker.

Certain points must be noted in connection with the introduction and passing of a money bill. These are :

(a) The ministers are only entitled to introduce a money-bill in the State Legislature. The private members of the State Legislature do not possess the power. (b) A money-bill cannot be originated in the State Legislature without the recommendation of the Governor of the State. (c) All proposal for revenue and expenditure must come from the ministers.

Let us now discuss the process of passing of a money-bill in the State Legislature of India.

According to the provisions of the Constitution, a money-bill is introduced in the Legislative Assembly. It cannot be originated in the Legislative Council. So far as the money-bills are concerned, the supremacy of the Legislative Assembly prevails over the Legislative Council, though it is placed before both the Houses of the State Legislature. In the Legislative Assembly, the process of passing a money-bill is not similar to that of passing a public bill. The members of the Assembly may criticise the financial policy of the Government. Amendments are made on the bill. All expenditures are voted except those expenditures which are charged upon the Consolidated Fund of the State (e.g. salaries and allowances of the Governor). With a majority support behind it, the ministry can easily pass the money-bill.

When a money-bill is passed by the Legislative Assembly, it is sent to the Legislative Council for ratification. The Constitution lays down that the Legislative Council has no power to reject or amend a money-bill. It can only make recommendations. And these recommendations may be accepted or rejected by the Legislative Assembly. The Legislative Council can delay a money-bill for a period of fourteen days only. If the Legislative Council does not return the bill to the Legislative Assembly within this period, the bill is deemed to have been passed by both the Houses of the State Legislature.

After a money-bill has been finally passed by the Legislative Assembly and the Legislative Council, it is presented to the Governor of the State for his assent. It is a convention that the

Governor does not withhold his assent from a money bill passed by the State Legislature.

Q 52. Describe the composition and functions of the Legislative Assembly in an Indian State.

Ans. The Constitution of India does not envisage a bicameral Legislature in all the component States. Some of the Indian States have taken bicameralism, while others have unicameral legislature. Where there are two houses of the State Legislature, one is called the Legislative Assembly and the other is known as the Legislative Council. As for example, the legislature of Bihar has both the Legislative Assembly and the Legislative Council. But the States of Assam and West Bengal have each only one Chamber, i.e., the Legislative Assembly.

*Composition :* The Legislative Assembly is the Lower of the State Legislature. Its strength cannot exceed more than 500 members and less than 60 members. For the purpose of election of members of the Legislative Assembly, each State is divided into several territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it is same throughout the State. The members of the Legislative Assembly are elected directly by the people of the State on the basis of the universal adult franchise. Every citizen of the State who has reached the age of 18 years can participate in the elections of the Legislative Assembly. There is no reservation of seats except for the scheduled castes and scheduled tribes. The Governor may nominate one member from the Anglo-Indian Community to the Legislative Assembly if he is of opinion that the community is not adequately represented.

The qualifications for a member of the State Legislative Assembly are that he shall (i) be a citizen of India, (ii) be not less than 25 years of age and (iii) possess such other qualifications as may be prescribed by Parliament (e.g. name must be enlisted in the electoral list).

The normal tenure of the Legislative Assembly is five years. It may, however, be dissolved earlier. On the other hand, its duration can be extended for one year at a time in case of proclamation of National Emergency.

The members of the Legislative Assembly elect a Speaker and a Deputy Speaker from among themselves.

*Power and Functions :* The Constitution of India has recognised the supremacy of the Legislative Assembly in matters of law-making. Its powers and position are greater than those of the Legislative Council. The powers and functions of the Legislative Assembly are as follows :

*Legislative Powers :* The Legislative Assembly makes laws on the subjects enumerated in the State List and the Concurrent List. An ordinary bill can be originated in either House of the State Legislature. A public bill passed by the Legislative Assembly is sent to the Legislative Council for consideration. But the Legislative Council can delay such a bill for four months only; after that period, the bill is considered to have been passed by both the Chambers. On the other hand, if an ordinary public bill enacted by the Legislative Council is rejected by the Legislative Assembly, it is dead for that session.

*Executive Powers :* The Legislative Assembly has a share in the formation of the Council of Ministers of the State. For, most of the ministers are taken from the Legislative Assembly. The Chief Minister usually belongs to the Lower House of the State Legislature. The Legislative Assembly controls the ministry by putting questions and criticising policies of the State Government. The Cabinet remains in office so long as it commands the support of the majority members of the Legislative Assembly. The Legislative Assembly may force the ministry to resign by a censure motion.

*Financial Powers :* The Legislative Assembly has full control over the finances of the State. The State budget is placed before it. No tax can be levied except on the recommendation of the Legislative Assembly. A money-bill always originates in the Legislative Assembly. The Legislative Council cannot reject or amend a money bill passed by the Assembly. The Legislative Council can delay a money bill for 14 days only.

*Miscellaneous Powers :*

(a) The elected members of the Legislative Assembly of a State take part in the elections of the President of India.

(b) The Legislative Assembly has a share in the amendment of the Constitution relating to the election of the President of India, the distribution of powers between the Centre and the State etc.



(c) The Legislative Assembly has the right to consider the reports of the State Public Service Commission as well as the Comptroller and Auditor General.

However, the Legislative Assembly of the State suffers from certain limitations—(i) The Supreme Court of India or the State High Court can review the laws passed by the Legislative Assembly. (ii) The Legislative Assembly cannot move a bill for the amendment of the Constitution. (iii) The Governor may reserve a bill enacted by the Legislative Assembly for consideration of the President of India. (iv) The Governor has the power to dissolve the Legislative Assembly at any time. (v) No money bill can be introduced in the Legislative Assembly except on the recommendations of the Governor of the State. (vi) Parliament can legislate on a State Subject in the national interest.

Q. 53. Indicate clearly the procedure of Legislation (other than that of Money Bills) in State Legislature.

Or,

Fully describe the procedure of passing a Public Bill in the legislature of an Indian State.

Ans. Like the Union Parliament, the State Legislatures in India also pass a large number of bills every year. There are mainly two kinds of bills which are enacted by the legislature of a constituent State of the Indian Union. These are : (a) Public bill and (b) Money Bill. A public bill is one which deals with the general interests of the people of the State.

The different stages which are required for passing a public bill may be analysed below :

*Introduction and First Reading* : According to the provisions of the Indian Constitution, a bill other than a money-bill may be originated in either of the two Houses of the State Legislature. In other words, the said bill can be introduced either in the Legislative Assembly or in the Legislative Council. However, the important public bills are generally introduced in the Legislative Assembly, i.e., the Lower House of the State Legislature. A minister or a private member of the Assembly has the equal right to initiate a public bill. But a private member must give a notice to the Speaker for the introduction of the bill. It must also be published in the *Official Gazette*. Debate does not take place in the first reading of the bill. The mover of the bill may

give a short speech relating to the main objects of the bill. The leader of the Opposition, if he desires, can say something on the bill. The Introductory Stage is also called the First Reading of the bill.

*Committee Stage* : After the first reading is over the mover of the bill may propose one of the following courses : (a) the bill may be taken into consideration or (b) the bill may be sent to a Select Committee of the House, or (c) the bill may be referred to Joint Committee of the two Houses of the State Legislature, (d) the bill may be circulated among the people. The bill may be referred to a Select Committee of the House where it originates. The members of the Select Committee are appointed from among those members of the House who have special knowledge or practical experience on the subject. The Committee Stage is a time-consuming stage because the Committee takes months to consider the bill. The members of the Committee scrutinise the bill thoroughly and carefully. Amendments are also made. The Committee then submits a report to the House.

*Report Stage* : At this stage, the report of the Committee is considered by the House. The Committee's report is circulated among the members. The House also decides whether any other alterations or additions can be made on the bill. If the report is accepted by the majority of members in the House, it goes to the next stage.

*Second Reading* : This is the most important stage in the life of a bill. Here the bill is discussed in details and clause by clause. The members may also move amendments on the bill. The bill is modified at this stage. The proposed amendments may be accepted or rejected by the House. It may be pointed out that 99% of the Private Member's bills are killed at this stage. The bill is then passed or rejected by the majority of the members present and voting.

*Third Reading* : This is a formal stage in the passing of an ordinary bill. No substantial amendments can now be made on the bill. Only verbal amendments are made. Discussion is also limited. No bill is generally rejected in the third reading. The bill is then passed by majority votes.

*Other House—a similar procedure* : After a public bill has been passed by the Legislative Assembly, a copy of it is sent to the

Legislative Council for its approval. The Council also passes the said bill through the same procedure. If, however, (a) the bill is rejected by the Council, or (b) the two Houses have disagreed as to the amendments made on the bill, or (c) the bill is not sent back to the Legislative Assembly within a period of three months then the Assembly may pass the bill again the transmit it to the Legislative Council. When the bill is sent to the Council for the second time, it is considered to have been passed by the two Houses even if the bill is not again passed by the Council within a period of one month. On the other hand, if a public bill, passed by the Legislative Council is not accepted by the Legislative Assembly, the bill is dead for the session.

**Governor's Assent :** When a bill is passed by the State Legislature, it is sent to the Governor for his assent. The Governor may assent to it or withhold his assent or reserve the bill for the consideration of the President. The Governor may also return the bill to the legislature for reconsideration. When the bill is sent for the second time to the Governor for assent, he is not withhold his assent.

**Q. 54.** Write an analytical note on the position and functions of the Speaker of the Legislative Assembly in an Indian State.

**Ans.** In an Indian State, the officer who presides over the Legislative Assembly is popularly known as the Speaker. The office of the Speaker is said to be famous for dignity and impartiality. The office is as old as the Legislative Assembly itself. The Speaker speaks the least. He speaks for the Legislative Assembly and not to it.

After the general election is over, the newly constituted Legislative Assembly elects the Speaker from among its members. In practice, the Speaker is the nominee of the majority party in the Legislative Assembly. However, the Chief Minister takes the advice of the Colleagues and the leaders of the Opposition parties. The Speaker is elected for a period of five (5) years. But he may be removed from his office earlier by a resolution of the Legislative Assembly. Such a resolution requires fourteen day's notice and it must be passed by a majority of all the members of the Legislative Assembly. One of the distinctive features of the office of the speaker is that he does not vacate his office even when the Legislative Assembly is dissolved. He may continue to

remain in office until a new speaker is elected by the Legislative Assembly.

The Primary duty of the Speaker is to preside over the meetings of the Legislative Assembly. He is to see that the time of the Legislative Assembly is properly used. The Speaker controls the debates of the Legislative Assembly. He maintains decorum, order and discipline when the Legislative Assembly is in session. He declares and interprets the law regulating to the procedure in the Legislative Assembly. He has the power to decide points of order and put questions. The Speaker may warn and suspend those members who violate the rules of the Legislative Assembly. He has also the power to adjourn the session of the Legislative Assembly for an indefinite period. In the Legislative Assembly, voting takes place under the direction of the Speaker. He announces the final result of vote. The Speaker may give rulings on any issues he likes. His rulings are final and they cannot be questioned in a court of law. The members of the Legislative Assembly have no right to discuss an adjournment motion without the approval of the Speaker. He serves as a bridge between the Governor and the Legislative Assembly. The Speaker alone can determine whether a particular bill is a money bill or not. The speaker also acts as the guardian of the rights and privileges of the members of the Legislative Assembly—from the Chief Minister down to the Backbencher—are equal. The Speaker has the power to appoint the editors and printers of the different journals of the Legislative Assembly. It is the duty of the Speaker to see that the speeches delivered by the members are correctly published in the journals.

To sum up, the office of the Speaker of the Legislative Assembly in an Indian State should be independent and impartial. He should give up his party colours. He should not attend any party meeting or conference. In short, the speaker of the State Legislative Assembly should be a true symbol of the dignity and independence of the House as well as the guardian of the rights and privileges of its members.

**Q. 55.** Discuss the privileges and immunities of the State Legislatures and their members in India.

**Ans.** Privileges are peculiar rights and immunities enjoyed by the State Legislatures and their members. These rights are meant



not to put members of the State Legislatures in a separate and superior political caste, but to enable them to discharge their duties smoothly without any obstacle of any type as representatives of the people. Unless the State Legislatures and their members have privileges and immunities, they will not be able to function effectively in accordance with the provisions of the Constitution. It is said that the State Legislatures may commit for contempt and the courts will not go into the facts constituting the alleged contempt provided that the cause of the contempt is not stated.

The Constitution of India provides for certain privileges and immunities to the State Legislatures and their members for ensuring freedom, security and dignity. These privileges are of two types, one for the State Legislatures, and other for each member in his capacity as a part of the State Legislature. The privileges and immunities are essential to the successful working of parliamentary democracy in India.

The Constitution of India describes the privileges and immunities of the State Legislatures and their members which are as follows :—

(1) *Freedom of Speech* : All members of the State Legislatures enjoy full freedom of speech. This is quite necessary for them to discharge their duties. Like the Central Government, the State Government is also based on discussion and conflict of ideas. Members of the State Legislatures shall be given the widest scope to express themselves freely without fear or being dragged into a court of law for defamation.

(2) *Freedom for Arrest* : This privilege applies in cases of a civil nature and operates during session of the State Legislatures and 40 days before or after. A member cannot, however, be arrested inside the State Legislature even if he is wanted in a criminal case, without the permission of the Speaker.

(3) *Power to Summon Persons* : The State Legislatures and their Committees have the right to summon any person to adduce evidence and information, to produce documents, or to answer a charge of breach of privilege or contempt of the State Legislature. Disobedience is punishable by the State Legislature concerned.

(4) *Right to Regulate Affairs* : No executive or judicial authority

in the country has any right to interfere in the internal affairs of the State Legislatures.

(5) *Power to punish for breach of privilege* : The State Legislature can try and punish any person for contempt or breach of privileges, whether committed inside or outside the State Legislature.

(6) *Right to exclude strangers* : The inviolability of the State Legislature by outsiders is strictly maintained. Visitors must obtain the Speaker's prior permission. If the State Legislature so desires outsiders can at any time, be expelled from the Chamber's galleries.

(7) *Publishing Proceedings* : The speeches delivered in the State Legislature shall be published only when they are authorised by the Legislature. A member of the State Legislature shall not publish his speech in a newspaper without being authorised.

Q. 56. Discuss the position of Kashmir in the Indian Constitution.

Ans. According to the Constitution of India, the State of Jammu and Kashmir is an integral part of the Union of India. But it holds a peculiar position in the Constitution of India in comparison with other constituent States. The unique position of Jammu and Kashmir has been due to the conditions that prevailed at the time of its accession to the Union of India.

During the British rule, Jammu and Kashmir was an Indian State. When the State was attacked by "Azad Kashmir Forces," in October, 1947, it acceded to the Indian Union by signing an Instrument of Accession. And the Union of India was empowered to acquire jurisdiction over external affairs, defence and communications. The State of Jammu and Kashmir was a Part B State in the original Constitution of India. But the States Reorganisation Act of 1956 and the Constitution [Seventh Amendment] Act, 1956 have abolished the classification of States. As a result, Jammu and Kashmir has acquired the status of a full-fledged constituent State included in the First Schedule of the Constitution of India.

Articles I and 370 of Indian Constitution are applicable to the State of Jammu and Kashmir. The President of India may also determine the application of other Articles of the Constitution to the State of Jammu and Kashmir. Further, the President of India has been authorised to abrogate Art. 370. He can also make



certain modification in accordance with the recommendations of the Constituent Assembly of Jammu and Kashmir.

Therefore, the administration of Kashmir differs from that of other States in India. A special arrangement has been made to determine the proper relationship between the Union of India and the State of Jammu and Kashmir. And this has been known as the Constitution (Application to Jammu and Kashmir) Order, 1954. The Constitution Order has been amended from time to time.

That the State of Jammu and Kashmir has acquired a special status in the Constitution of India is evident from the following :

(1) The jurisdiction of the Union Parliament over Kashmir extends to the subject included in the Central List. Parliament can also legislate on certain Concurrent subjects which are applicable to Jammu and Kashmir. But the State of Kashmir enjoys exclusive jurisdiction over residuary powers.

(2) Indian Parliament cannot make laws on the State subjects of Jammu and Kashmir in the normal interest.

(3) The Preventive Detention Act, 1950 is not applicable to Kashmir. The State of Jammu and Kashmir is entitled to enact the Preventive Detention Act for its own requirements.

(4) Previously, the head of the State of Kashmir was designated as a *Sardar-i-Riyasat*. He was elected by the State Legislature. But this has been changed. At present, the head of the State is known as the Governor. And he is appointed by the President of India. Again, the leader of the Council of Ministers in Kashmir was called the Prime Minister. Today, he is popularly known as the Chief Minister. The Ministry is collectively responsible to the Legislative Assembly.

(5) The State of Jammu and Kashmir has a separate Constitution of its own. But other constituent States have no separate Constitutions. Therefore, Art. 370 of the Indian Constitution determines the relationship between the Union of India and Kashmir. But this Article stands in the way of the close correspondence between the Government of India and the State of Kashmir. Political thinkers in India have recommended for abrogation of Art. 370. But we are to note that Arts. 356 and 357 extend to the case of Kashmir. According to these Articles, the President may proclaim an emergency on the ground of failure

of constitutional machinery in the State of Kashmir. But the President cannot declare an emergency if the State of Kashmir fails to comply with the directions given by the Central Govt. (Art. 366). The financial emergency does not extend over Kashmir.

(6) The President of India appoints the Judges of the High Court of Kashmir in consultation with the Chief Justice of India and the Governor of the State.

(7) The Union Parliament cannot alter the name and boundaries of the State of Kashmir without the consent of the latter.

(8) Fundamental Rights have been extended to the State of Kashmir subject to certain modifications. As for example, it is not possible to examine the reasonableness of restrictions imposed by the State Legislature of Kashmir on the freedoms of speech, expression, assembly, movement, association as enumerated in Art. 19 of the Indian Constitution. Further, the Directive Principles of State Policy are not applicable to Kashmir.

(9) The representatives of Kashmir in the Lok Sabha are directly elected by the State.

(10) Parliament cannot amend the Constitution of Kashmir. The State Legislature alone has been empowered to change the Constitution by a two-third majority of votes in each House. But it cannot amend the provisions of the Constitution relating to the relationship of Kashmir with the Union of India.

(11) The Legislature of Kashmir, like other States in India, consists of two Chambers. The Legislative Assembly has a total membership of 100. And the Legislative Council is composed of 50 members.

(12) Urdu is the official language of Kashmir. But the English shall also be used, in addition to Urdu, for official purposes of the State.

(13) The Supreme Court of India acts as the final Court of Appeal for the State of Kashmir. The Supreme Court also exercises its original jurisdiction relating to constitutional disputes between the Union of India and State of Kashmir.

(14) The members of the State Public Service Commission are appointed by the Governor. The provisions of the Indian Constitution relating to All-India Services have been extended to the State of Jammu and Kashmir.

(15) The Election Commission in India also conducts the

election of Kashmir. The Comptroller and Auditor-General of India has the power to Audit the accounts of the Government of Kashmir.

Thus, Kashmir has acquired a special status in our Constitution. It enjoys more powers than those granted to other States in India.

Q. 57. Write a note on the administration of the Union Territories in India.

Ans. The expression "Union Territories" refers to those regions of India which are administered and controlled by the Union Government—the Central Executive [Ministry and Bureaucracy] and the Parliament.

Before 1991, there were seven (7) Union Territories in India. However, the Constitution [Sixty-ninth] Amendment Act of 1991 has given the former Union Territory of Delhi a special status by which it has been transformed into the National Capital Territory. At present, Delhi has a unicameral legislature [Legislative Assembly or Vidhan Sabha] comprising 70 seats and also a seven [7]-member Council of Ministers with the Chief Minister at its head. Strictly speaking, Delhi is now not a Union Territory in the accepted constitutional term.

Hence, we have at present six Union Territories. They are : [1] Pondicherry, [2] Chandigarh, [3] Dadra and Nagar Haveli, [4] Daman and Diu, [5] Andaman and Nicobar Islands, and [6] Lakshadweep.

The Constitution of India states that every Union Territory is administered by the President of the Republic through an Administrator to be appointed by him with such designation as he may specify. In Union Territories, the administrator is popularly known as the Chief Commissioner [Lakshadweep] or the Lieutenant Governor [Pondicherry].

Of the present Union Territories, Pondicherry enjoys more constitutional autonomy than that of others. Pondicherry has a Legislative Assembly of 30 members to make laws for the good administration of the territory. Normally, the Council of Ministers headed by a Chief Minister and three or four other Ministers carries on the administration directly.

The President of India may appoint the Governor of a State as the administrator of an adjoining Union Territory and where a Governor is so appointed, he exercises the functions

independently of his Council of Ministers. Besides, the President has the power to repeal or amend an Act of Parliament for the peace, progress and good Government of the Union Territories of two Islands, Dadra and Nagar Haveli, Chandigarh, or Daman and Diu.

In this connection, we are to note that the Lieutenant Governor of Pondicherry can, after obtaining instructions from the President, promulgate Ordinances when the Legislative Assembly is not in session to take immediate action on matters of administration. It has the same force as the law of the Legislature.

It is to be noted that the Constitution [70th] Amendment Act of 1992 has empowered the Legislatures of Delhi and Pondicherry Assemblies to take part in the elections of the President of the Indian Republic.

Lastly, the Union Parliament may, by law, constitute a High Court for a Union Territory or authorise a State High Court to extend its jurisdiction to the adjoining Union Territory [Cf. the Calcutta High Court to Andaman and Nicobar Islands, or the Kerala High Court to Lakshadweep].



8

## INDIAN JUDICIARY

Q. 58. Discuss the constitutional position of the Supreme Court of India.

Or,

Evaluate the role of the Supreme Court as the guardian of the Indian Constitution.

Or,

Explain the composition and functions of the Supreme Court of India.

Ans. The existence of an independent and impartial Supreme court is one of the distinctive features of federation. In a federal form of Government, the role of the Supreme Court is of great importance. The Supreme Court is regarded as the interpreter and the guardian of the Constitution. It protects the rights and freedoms of the people under the Constitution. The Supreme Court has also the power to settle all constitutional disputes that arise between the federation and the States or between the States themselves.

India is a federal State. The Constitution of India has accepted the American model and not the British, so far as the role of the Supreme Court is concerned. But in India, there is not a dual system of courts as in the U. S. A. There is a single integrated judicial system in India. At the apex of the entire judicial system stand the Supreme Court of India. It is the highest and final judicial tribunal in India. All other courts are subordinate to the Supreme Court.

**Composition :** At present, the Supreme Court of India consists of [26] Judges—one Chief Justice and 25 other Judges. Every Judge of the Supreme Court is appointed by the President in consultation with other senior Judges of the Supreme Court and the High Court of States.

The necessary qualifications required for the appointment of a Judge of the Supreme Court are as follows :

[a] A person must be a citizen of India and [b] a person must

be a Judge of a High Court for at least five years ; or [c] a person must be an advocate of a High Court for at least ten years; or [d] a person must be a distinguished jurist.

The Judges of the Supreme Court of India continue to remain in office till the age of 65 years. But a Judge of the Supreme Court may be removed earlier by an order of the President after an address presented to him by the Parliament on ground of proved misbehaviour or incapacity. Such an address must be supported by a majority of the total membership and by at least two-thirds of members present and voting in each House of Parliament.

**Jurisdiction :** The Supreme Court of India is the highest Judicial organ. Therefore, it possesses very wide powers. The jurisdiction of the Supreme Court may be classified under different heads—Original, Appellate, Writ and Advisory.

[a] **Original Jurisdiction :** The Supreme Court of India has exclusive original jurisdiction in any dispute—[1] between the Government of India and one or more States or [2] between the Government of India and any State or States on one side and one or more States on the other ; or [3] between two or more States.

[b] **Appellate Jurisdiction :** The Supreme Court is the highest Appellate Court in India and as such it has an appellate jurisdiction over the State High Courts. It hears appeals in constitutional, civil and criminal cases.

[c] **Constitutional :** In constitutional matters, the Supreme Court hears appeals from a State High Court, when the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

[d] **Civil :** The Supreme Court also hears appeals in civil case if a High Court certifies that [a] the case has a great constitutional significance, or [b] the case is a fit one for appeal to the Supreme Court.

[e] **Criminal :** The Supreme Court has also the power to hear appeal in criminal cases from a State High Court if the High Court [1] has on appeal reversed an order of acquittal of an accused person and sentenced him to death or [2] certifies that the case is a fit one for appeal to the Supreme Court.

[f] **Writ Jurisdiction :** Under the Constitution of India, a



person has the right to move the Supreme Court for the protection of his fundamental rights. And the Supreme Court may issue writs in the nature of *habeas corpus*, *mandamus*, prohibition and *quorum warrant* for the enforcement of the fundamental rights of citizens conferred by Part III of the Constitution.

[c] *Advisory Jurisdiction* : The President of India has the power to refer important questions of law or fact to the Supreme Court for its opinion. And the Supreme Court may report to the President its opinion thereon.

*Constitutional position of the Supreme Court* : The Supreme Court of India possesses more powers than any other Supreme Court of the world. The Constitution gives it a pre-eminent position in our federation. Like the Supreme Court of the U. S. A., the Supreme Court of India also enjoys the power of judicial review. Our Supreme Court acts as the interpreter and guardian of the Constitution. The Supreme Court has the full power to interpret the Constitution in its own way, because the Constitution is what the judges say it is. Its decisions are also binding on all courts within the territorial jurisdiction of India. The Supreme Court possesses the power to review the federal laws and the State laws. It has been decided by the Supreme Court that a law of Parliament or of a State Legislature must be in conformity with the Constitution. The Supreme Court must decide whether a law is constitutional or not. Under the Federal Constitution of India, every organ of Government enjoys limited powers. Therefore, Parliament as well as the State Legislatures must exercise the powers within the limits of their respective jurisdiction. The Supreme Court can declare the laws of Parliament and the State Legislatures unconstitutional on the ground that they are inconsistent with the constitutional requirements. Our Supreme Court is also the upholder of the fundamental rights of citizens. The Supreme Court must not enforce any law if it takes away or abridges the rights of citizens.

But our Supreme Court does not play the role of the Supreme Court of the U. S. A. The American Supreme Court has the power to review the wisdom of any legislative policy with the help of "due process of law. In other words, it can examine the pros and cons of law. This is the reason that the American Supreme

Court has been described as the balance wheel of the Constitution or the Third Chamber of the Congress.

But the Constitution of India does not provide for "due process of law". Like the Constitution of the U. S. A., we have not accepted the supremacy of the judiciary in full form. Under the Constitution of India, there is the "procedure established by law". It signifies that Supreme Court has the power to examine whether a Federal law or a State law is in contravention of the Constitution or not. But our Supreme Court does not possess the power reviewing the badness or goodness of a particular law. Therefore, the Supreme Court of India does not enjoy the position and prestige of the American Supreme Court.

So far as the power of judicial review is concerned, our Supreme Court stands above the Courts of the U. K. and Switzerland. The judiciary in Britain or Switzerland cannot interpret the Constitution. It does act as the guardian of the Constitution. In other words, the judiciary has no power to nullify the unconstitutional legislation.

But the Supreme Court of India occupies a pre-eminent and pivotal position under the Federal Constitution of India. The role of the Supreme Court as the guardian of the Constitution and the protector of fundamental rights of citizens should not be underestimated. Our Supreme Court always tries to uphold the rights of citizens against the arbitrary powers of the executive and legislature. Mr. Justice D. Basu, a constitutional expert of India, observes, "It [our Supreme Court] has more powers than any other Supreme Court in any part of the world—combining original, appellate, revisional and consultative powers and functions in a unique manner.

Q. 59. How has the Constitution of India safeguarded the independence of Judiciary ?

Ans. The independence of judiciary is of great importance in the democratic Government of India. For, an independent and impartial judiciary alone can protect the citizens against the arbitrary powers of the executive or legislature. This is the reason that the Constitution of India has made elaborate provision for ensuring the position of the Judges of the Supreme Court and the High Courts.

First, every Judge of the Supreme Court or a State High Court

before entering upon his office has to administer an oath that he will perform his duties without fear or favour, affection or ill-will and uphold the Constitution of India and the laws.

*Secondly*, the method of appointment of judges also ensures the independence of judiciary in India. The Constitution has made it obligatory on the President to consult the highest judicial authorities in the matter of appointment of the Judges of the Supreme Court and the High Courts. The President must not be influenced by political consideration. He should consider the merits and capability of the persons concerned.

*Thirdly*, the Constitution also guarantees the security of tenure of Judges. A Judge of the Supreme Court or of a High Court cannot be arbitrarily removed by the President. The President can remove a Judge on the ground of proved misbehaviour or incapacity on a report by both Houses of Parliament supported by a special majority. The Constitution provides that the retirement age of a Supreme Court Judge is 65 years and of a High Court Judge 62 years. Long tenure of service enables the Indian Judges to function independently and impartially.

*Fourthly*, the salaries and allowances of the Judges of the Supreme Court and the High Courts are charged upon the Consolidated Fund of India. They are not subject to the annual vote of Parliament and the State Legislatures. Further, the salaries and allowances of the Judges in India cannot be reduced after their appointment except in times of financial emergency.

*Fifthly*, neither the legislature nor the executive is entitled to discuss the activities of the Judges except in case of removal of them.

*Lastly*, another constitutional provision is that a Judge of the Supreme Court is not permitted to start practice before any Court of law after retirement. However, a High Court Judge can practice except in the Court in which he had acted as a Judge.

Q. 60. Discuss the composition and functions of the High Court in an Indian State.

Or,

Examine the role of the High Courts in the judicial system of India.

Or,

Describe the Judicial system in West Bengal.

Or,

Describe the organisation of the Indian Judicial System with special reference to the position and functions of the High Courts.

Ans. The American federation has been characterised by double system of Courts. In the perfect federation of the U. S. A., the federal judiciary and the State judiciary run parallel. One is separate from and independent of the other. India is a federation. Unlike the U. S. A., we have not two sets of judiciary, one to administer the federal law and the other to administer the State law. There is no fundamental and constitutional difference between the Union Judiciary and the State Judiciary. In India, there is a single integrated judicial system. It is organised on pyramidal form.

At the apex of the entire judicial system stands the Supreme Court of India. Immediately below the Supreme Court are the various High Courts and below them are the Subordinate Courts of each State. All the Courts in the Union of India are under the control of the Supreme Court. The decisions of the Supreme Court are binding on all other Courts within the territory of India.

According to the provisions of the Constitution of India, there is a High Court for each State. It is the highest court of the State. Parliament may by law establish a common High Court for two or more States. At present, the High Court of Guwahati also acts as the High Court of Nagaland.

The High Court of a State consists of a Chief Justice and such other Judges as the President of India may from time to time consider it necessary to appoint. The Judges of the High Court are appointed by the President in consultation with the Chief Justice of the Supreme Court and the Governor of the State.

Every Judge of the High Court shall have to possess the qualifications enumerated below [i] he must be a citizen of India; and [ii] he must hold a judicial office in India for at least ten years; or [iii] he must be an advocate of a State High Court for at least ten years.

The Judges of the High Court continue in office till the age of 62. A judge of the High Court may be removed from his office by the President on a report of two Houses of Union Parliament.

Let us now discuss the jurisdictions of the High Courts.

The High Court enjoys original jurisdiction in civil matters and appellate jurisdiction in civil and criminal matters. Its original jurisdiction extends to all important civil cases. It can also hear appeals against the decisions of the subordinate courts such as the District Judge's Court, Session Judge's Court in civil and criminal matters.

The Constitution of India has granted fundamental rights to the citizens. The High Court has the power to issue writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo-warranto* and *certiorari* for the enforcement of the rights of citizens. The High Court may also issue these writs for any other purpose.

The High Court has also the power to supervise the judicial and administrative functions of all courts excepting the military tribunals throughout the territory in relation to which it exercises jurisdiction. For this purpose, the High Court may call for returns from such Courts. It may also make general rules for regulating the practice and proceedings of such courts.

The Constitution also provides for the transfer of certain cases to the High Court. If the High Court is satisfied that a case pending in a subordinate court involves a substantial question of law as to the interpretation of the Constitution, it may dispose of the case itself.

The High Court has the power to control the courts subordinate to it. First, the Governor of the State appoints the District Judge, Sessions Judges, Metropolitan Magistrate etc. in consultation with the High Court of the State.

Secondly, appointment of persons other than district judges etc. to the judicial service of the State [i.e. Munsiffs] are made by the Governor in consultation with the State Public Service Commission and the High Court.

Thirdly, the Constitution has also vested in the High Court the power to control the district courts including the posting and promotion of, and the grant of leave to, persons belonging to the judicial service of the State.

The High Court of the State occupies a pivotal position in the Constitution of India. It is the highest court of the State. The Constitution has laid a special stress on the independence and impartiality of the Judges of High Court.

Under the federation of India, the State High Court is

empowered to interpret the provisions of the Constitution. It can nullify the unconstitutional laws passed by the State Legislature. It also protects the rights and freedoms of citizens.

Therefore, the High Court of the State acts as the interpreter and guardian of the Constitution as well as the upholder of the rights of citizens.

The Constitution ensures the conditions of service of the Judges of the High Court. They continue to remain in office till the age of 62 years. They cannot arbitrarily be removed by the executive. They may be removed by the President on a report of both Houses of Parliament on ground of proved misbehaviour or incapacity.

Neither the Parliament nor the State Legislature is entitled to discuss the activities of Judges of the High Court except in case of removal of them.

The salaries and allowances of the Judges of the High Court are charged upon the Consolidated Fund of the State. They are not subject to the annual vote of the State Legislature. The salaries and allowances cannot also be reduced except in times of financial emergency.

According to the Constitution of India, there are subordinate courts below the High Courts in each State.

These courts are under the complete control of the High Court.

The composition of subordinate judiciary may vary from State to State. In West Bengal, the subordinate courts may be divided into two groups :

Civil	Criminal
1. District Judge's Court	a. Sessions Judge's Court
2. Subordinate Judge's Court	b. District Magistrate's Court.
3. Munsiff's Court	c. Subordinate Magistrate's Courts [1st class, 2nd class, and 3rd class]
4. Nyaya Panchayet	d. Nyaya Panchayet

The lower court deals with minor cases while the important cases belong to the higher courts. Appeals lie to the higher courts



from the lower courts. An appeal may also lie to the High Court against the decision of the District Judge's Court or Sessions Judge's Court.

In a Presidency town like Calcutta, there are City Civil Courts and the Metropolitan Magistrate's Courts. They deal with civil and criminal matters. An appeal may lie to the High Court from these Courts.

Q. 60.A. Give a brief account of the judicial system in India.

Ans. India is a federal state. But there is not a dual system of courts as in the U.S.A. In India, there is a single integrated judicial system. It is organised on pyramidal form.

At the apex of the entire judicial system stands the Supreme Court of India. Immediately below the Supreme Court are the various High Courts and below them are the subordinate courts in each state. All the courts in the Union of India are under the control of the Supreme Court. And the decisions of the Supreme Court are binding on all other courts within the territory of India.

**Supreme Court :-**

The Supreme Court is the highest judicial tribunal in India. It consists of one Chief Justice and twenty-five (25) other Judges. They are appointed by the President of India. A Judge continues to remain in office till the age of 65 years. He may be removed by the President of the Republic on a report of Parliament on grounds of proved misbehavior or incapacity.

The Supreme court has original, Appellate, writ and Advisory Jurisdictions.

**Original Jurisdiction :** The Supreme Court has exclusive original jurisdiction in any dispute between-(a) the Government of India and one or more states or (b) the Union Government and any State or States on the one side and one or more States on the other, (c) two or more states, if the disputes involve a legal right.

**Appellate Jurisdictions :**

In *Constitutional matters*, an appeal lies to the Supreme Court if the High Court Certifies that the case involves a substantial question of law as to the interpretation of the constitution. In *civil cases*, an appeal lies to the Supreme Court if the High Court certifies that the case involves a substantial question of law of general public importance. In *criminal matters*, an appeal lies to the Supreme Court if the High Court reverses the acquittal order of the lower court and sentences him to death.

**Writ Jurisdiction :**

The Supreme court of India is the protector of the fundamental rights of citizens. It may issue writs in the nature of habeas corpus, mandamus prohibition, certiorari, and quo warranto for the enforcement of the rights and liberties of the people.

**Advisory Jurisdiction :**

Under the Constitution of India, the President of the Republic can refer to the Supreme Court any question of law or fact of public importance for its opinion. And the Supreme Court may report to the President its opinion thereon.

And lastly, the Supreme court may grant *special leave to appeal* from the judgement of any court of India.

The Supreme Court is the interpreter and guardian of the constitution of India. It can annul the unconstitutional laws and orders of the Union and the State Governments.

**High Courts :**

The constitution of India envisages a High Court for each state. Parliament may, however, by law establish a common High court for two or more States.

Each High Court consists of a Chief Justice and one other Judges as the President of India may determine from time to time. The Judges are appointed by the president in consultation with the Chief Justice of India and the Governor of the concerned state. The Judges retire at the age of 62. A Judge may be removed by the President of India on a report of Parliament.

**Jurisdiction :**

Every High Court enjoys *original jurisdiction* with respect to revenue and its collection, cases of succession, divorce etc. In its *appellate jurisdiction*, it hears appeals from the lower courts in cases concerning sales-tax, income tax, copy right, patent-right etc. The High Court is a *court of record* and its proceedings and decisions are referred to in future cases. A High court can issue *writs* for the enforcement of fundamental rights or for any other such purpose. A High Court *supervises* the working of all *subordinate courts* and frames rules and regulations for the transaction of business. The High Court is empowered to *interpret* the constitution of India. It can review the laws of the State Legislature and may declare them null and void if they go against the provisions of the constitution. Again, if a High court is

satisfied that a case pending in a lower court involves a substantial question of law as to the interpretation of the constitution, it may dispose of the case itself.

#### Subordinate courts :

There are subordinate courts below the High court in each state. The courts are under the complete control of the High court. The lower court (e.g. Nyaya Panchayat or Munsiff's court) deals with minor cases while the Higher courts (e.g., subordinate Judge's court or District Judge's court) deal with important cases. Appeals lie to the higher courts from the lower courts. An appeal may also lie to the High Court against the decisions of the District Judge's court or the Session Judge's court. In a Presidency town, there are city civil courts and Metropolitan Magistrates courts. In this connection, we are to note that most of the Judges of the subordinate courts are appointed by the Governor in consultation with the High Court of the concerned State.

## 9

### AMENDMENT PROCEDURE OF THE CONSTITUTION

Q. 61. What is the method of amendment of the Constitution of India ? Is the Indian Constitution rigid or flexible ? State your reasons fully.

Or,

Describe the various methods by which the provisions of the Constitution of India may be amended.

Or,

Discuss the procedure for amendment to the Constitution of India. Do you think that the Indian Constitution is flexible ? Give reasons for your answer.

Ans. In a federation, the Constitution is the fundamental law of the country. The Constitution stands above the Central Government and the State Governments. It divides and distributes the powers between the Federation and the States. Therefore, the Constitution must be rigid. The rigidity of the Constitution depends on two things. *Firstly*, the written Constitution should not be amended in the ordinary law-making process. A special mode should be adopted to alter the provisions of the Constitution. *Secondly*, in a typical federation the Centre and the States are co-ordinate. They are not subordinate to each other. Therefore, neither the Central Government nor the State Governments should be allowed to amend the Constitution without the consent of the other. In other words, both the Centre and the States should participate to amend the Constitution.

India is a federal State. Her Constitution is written. According to critics, a rigid procedure has been adopted in the amendment of the Indian Constitution. But this is not the case. We have not a rigid Constitution of the American type. Again, like the British Constitution the Indian Constitution is also not flexible. We have taken both rigidity and flexibility in the amendment of our Constitution.

Article, 368 deals with the different modes of amendment of Indian Constitution.

*Firstly*, according to the *First Paragraph of Art. 368*, a bill to amend the provisions of the Constitution may be introduced in either House—the House of the People or the Council of States of Parliament. It must be passed by a majority of the total membership and by a majority of not less than two-thirds of the members present and voting in each House of parliament. An amendment to the Constitution becomes valid on receiving the assent of the President of India. The fundamental rights of citizens and the directive principles of State policy can be changed according to this method.

*Secondly*, the *Second Paragraph of Art. 368* prescribes a special method for the amendment of the federal provisions of the Constitution. An amendment bill for that purpose may be initiated in either House of Parliament. It must be passed by a majority of total membership as well as by a majority of two thirds of the members of each House present and voting. Thereafter it should be ratified by one half of the State Legislatures. It becomes an Act as soon as it receives the assent of the President. According to this method, the following provisions of the Constitution can be changed :

[a] Election of the President.

[b] Representation of States in Parliament.

[c] Distribution of powers between the Centre and the States.

[d] Process of amendment of the Constitution as envisaged in Art. 368.

Besides, there are certain constitutional provisions which can be modified by a simple majority of votes in each House of Parliament in consultation with States or on their request. These provisions are [i] creation of new States, [ii] alteration of boundaries of States, [iii] creation or abolition of Second Chamber in a State.

Moreover, there are certain provisions in our Constitution which may be altered by a simple majority of the members present and voting in each House of Parliament. They are : [a] Laws of election, [b] Delimitation of constituencies.

But the Constitution declares that all these should not be deemed to be the amendments of the Constitution.

During the last fifty years, the Constitution of India has been amended as many as 80 times. The important amendments deal with fundamental rights of citizens, the reorganisation of States,

the creation of Union Territories, the retiring age of the judges of High Courts, the creation of the State of Nagaland and the State of Meghalaya; recognition of Sindhi, Manipuri, Nepali as our national languages; abolition of privy purse, recognition of, Sikkim as an associate State of India, lowering of Voting age from 21 to 18 years, reconstruction and development of rural and municipal administration etc.

The process of amendment of the Indian Constitution has been criticised on the following grounds :

[1] The Constitution of India entrusts the sole power to introduce an amendment bill upon the Parliament. In India, there is no provision for a Convention through which the Constitution may be amended.

[2] In India, the State Legislatures have no power to introduce a bill for the purpose of amendment of the Constitution. Again all amendments to the Constitution do not require the consent of the States.

[3] The prior sanction of the President of India does not require to initiate in Parliament a proposal for amending the Constitution.

[4] In the U. S. A., Congress cannot change any provision of the Constitution without the consent of the three-fourths of the State Legislatures. But in India, the ratification by the legislatures of one-half of States is sufficient for the purpose of amendment of the Constitution.

[5] The Constitution of India does not prescribe any time limit without which the State Legislatures are to ratify or reject an amendment.

[6] Unlike the U. S. A., an amendment to the Constitution of India must receive the assent of the President. The President has the power to withhold his assent.

[7] Parliament is empowered to amend the provisions of the Constitution relating to the fundamental rights of citizens without the approval of the States. It is unthinkable in the U. S. A.

From the above discussions, it may be said that the Fathers of the Indian Constitution did not wholly adopt the rigidity or the flexibility of the Constitution. Our Constitution is partly rigid and partly flexible. India has followed the rigid procedure of the American Constitution in the matter of amendment of the



provisions relating to the election of the President, distribution of powers etc. For, the Centre and the States are required to participate in the amendment of the provisions.

Like the British Parliament, our Parliament also can amend certain provisions of the Constitution in ordinary legislation. The procedure requires a simple majority in each House of Parliament. They are: the alteration of names and boundaries of States, the creation or abolition of a Second Chamber in a State. So, our Constitution is flexible in these matters.

Again, the Constitution of India seems to be flexible, because our Parliament alone can amend the fundamental rights of citizens. Here, the Indian Parliament resembles the Supreme Soviet of the former U. S. S. R.

Our late Prime Minister Pandit Jawaharlal Nehru observed: "While we want this Constitution to be as solid and permanent as we can make it, there is no permanence in the Constitution. There should be a certain flexibility. In any event, we could make this Constitution so rigid that it cannot be adopted to changing conditions. When the world is in turmoil and we are passing through a very swift period of transitions, what we may do to-day must not be wholly capable to-morrow."

Thus, the Constitution of India stands midway between the extreme rigidity of the American written Constitution and the too much flexibility of the unwritten Constitution of England. It is a novel feature of the Indian Constitution.

10

## PUBLIC SERVICE COMMISSIONS

Q. 62. Describe the composition and functions of the Union Public Service Commission.

Ans. Under the parliamentary democracy of India, the ministers actually run the administration of the country. But they are not always capable of performing the business of the Government because they are appointed for five years. They may not be re-appointed. Hence the ministers are to depend upon the permanent civil servants who have administrative experience. The ministers lay down the policies of Government. These are carried out by the civil servants. The civil servants are not concerned with politics. They possess wide knowledge. Therefore, in a parliamentary Government, the civil servants are indispensable.

(The members of the permanent executive are appointed by an organisation independently of the executive and legislature. This organisation is known as the Public Service Commission.)

Article 315 of the Constitution of India provides for the Union public Service commission. But the Constitution does not fix the number of members of the Commission.

The Union Public Service Commission consists of a Chairman and such other members as may be decided by the President of India. The members of the Commission are appointed by the President.

It is clearly laid down in the Constitution of India that one-half of the members of the Union Public Service Commission shall be persons who have held office under the Union Government or a State Government for at least ten [10] years. A member of the Union Public Service Commission holds office for six years or till he attains the age of 65 years, whichever is earlier.

A member of the Union Public Service Commission can be removed by the President on a report of the Supreme Court of India on grounds of proved misbehaviour or insolvency.

The Constitution provides for the independence and impartiality of the Union Public Service Commission. The salaries and allowances of the members of the Commission are not subject to

the annual vote of Parliament. They are charged upon the Consolidated Fund of India.

**Function :** The Union Public Service Commission (a) holds competitive examinations written as well as oral for appointments to the services of the Union Government ; (b) assists two or more States in framing and operating schemes of joint recruitment for any service ; (c) advises the Union Government on all methods of recruitment to services and for civil posts ; (d) advises the Union Government in making promotions and transfer from one service to another ; (e) advises the Union Government on all disciplinary matters affecting a person serving under the Government of India ; (f) advises the Union Government on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India and (g) advises the President of India on any other matter referred to it.

Article 323 of the Constitution of India provides that the Union Public Service Commission presents an annual report to the President as to the work done by it. This report is also placed before both the Houses of the Union Parliament by the President of the Republic.

But the Constitution of India empowers the President to make rules for excluding any class of appointment (i.e., Ambassadors, Consuls etc.) from the jurisdiction of the Union Public Service Commission.

The Union Public Service Commission is an advisory body. It has not been mentioned anywhere in the Constitution that the Union Government is bound to follow the advice of the Commission. In a parliamentary democratic country like India, the ministry is responsible for the good government of the country. The ministry is responsible to the Parliament for its activities. Hence, the ministers are not willing to make themselves responsible to any other body like the Union Public Service Commission. If the recommendations of the Union Public Service Commission are obligatory, there may be conflicts of jurisdiction between the Union Government and the Commission. The Commission may exercise a considerable amount of influence of its recommendations are advisory. The Supreme Court has also decided that the Commission is an advisory body of the Union Government. The Government may take disciplinary measure

against an employee without the recommendations of the Commission.

From the Constitutional point of view, it may be pointed out that the Union Public Service Commission of India is stronger than the corresponding Commissions of England and America. In U.K. and U.S.A., the Public Service Commissions are created by the laws of the legislature. Hence, the legislature has the power to modify the composition and functions of the Commission. In the U.K., and the U.S.A., the Commissions are subordinate to the legislatures. But in India, the Union Public Service Commissions is not under the jurisdiction of the executive or the legislature. It is an independent agency created by the Constitution itself. The success of parliamentary democracy of India depends mainly upon the existence of this independent and impartial Union Public Service Commission. The main object of the Commission is to secure the administrative efficiency of Government and to appoint the honest and fittest persons for services of the Union Government. It is also the duty of the Commission to see that the permanent officials perform the business of the Government independently and impartially irrespective of their party affiliations.

**Q. 63.** Discuss the composition and functions of the State Public Service Commission in India.

**Ans.** Under the parliamentary democracy of India, the ministers actually run the administration of the country. But they are not capable of performing the business of the Government. Hence, the ministers are to depend upon the permanent civil servants who have administrative experience.

According to the Constitution of India, the establishment of a Public Service Commission for each State is obligatory. Article 315 provides for the setting up of one Public Service Commission for each constituent State in India. However, Parliament may, by law, provide for the setting up of a joint public Service Commission if two or more States pass a resolution to that effect.

**Composition :** According to the provisions of the Constitution, a State Public Service Commission consists of a Chairman and such other members as may be decided by the Governor of the State. The Chairman and other members of the State Public Service Commission are appointed by the Governor by a warrant

under his hand and seal. It is clearly laid down in the Constitution of India that one-half of the members of the State Public Service Commission must be person who have held for at least ten years under the Government of a State. A member of the State Public Service Commission holds office for six years or until he attains the ages of sixty-two years, whichever is earlier. A member of the State Public Service Commission can be removed by the President on a report of the Supreme Court of India on grounds of proved misbehaviour or insolvency. The Constitution provides for the independence and impartiality of State Public Service Commission. The salaries and allowances of the members of the Commission are not subject to the annual vote of the State Legislature. They are charged upon the Consolidated Fund of the State.

**Functions :** The State Public Service Commission (a) holds competitive examinations written as well as oral, for appointment to the services of the Government of a State, (b) assists two or more States in framing and operating schemes of joint recruitment for any service, (c) advises the State Government on all methods of recruitment to services and for civil posts, (d) advises the State Government in making promotions and transfers from one service to another, (e) advises the State Government on all disciplinary matters affecting a person serving under the Government of a State, (f) advises the State Government on any claim for the award of a person in respect of injuries sustained by a person while serving under the Government of a State, (g) advises the Governor of a State of any other matter referred to it.

To conclude, the State Public Service Commission is an advisory body. It has not been mentioned anywhere in the Constitution of India that the State Government is bound to follow the advice of the Commission. In our country, the responsible Government prevails at the State. Therefore, the Council of Ministers is accountable to the State Legislature for the welfare of the people. The ministers are not willing to make themselves responsible to any other body like the State Public Service Commission. However, in India, the State Public Service Commission is not under the jurisdiction of the executive or the legislature. It is an independent agency created by the Constitution itself. The Commission ensures the administrative efficiency of the Government.

# 11

## ELECTION COMMISSION AND THE ELECTORAL SYSTEM IN INDIA

**Q. 64.** Discuss the Composition and functions of the Election Commission in India.

**Ans.** Election has been of great importance in the parliamentary democracy of India. Free, impartial and fair elections can only ensure the elections of the true representatives of the people. Article 324 of the Constitution of India provides for an Election Commission to conduct the elections of federal and regional legislatures and also the higher offices of the Republic (i.e., President and Vice-President).

**Composition :** According to the Constitution of India, the Election Commission at present consists of the Chief Election Commissioner and two other Election Commissioners. They are appointed by the President of India by a warrant under his hand and seal. Further, they are appointed for a period of six (6) years or they retire at the age of 65 years whichever is earlier. The Constitution has made the other two Election Commissioners at par with the Chief Election Commissioner. That is, the Chief Election Commissioner and his colleagues have equal powers and Constitutional Status (position) in all respects. The Chief Election Commissioner presides over the meetings of the Election Commission. And the decisions are taken unanimously, otherwise by majority votes. The Chief Election Commissioner has no constitutional power to remove the other two Election Commissioners. Like the Chief Election Commissioner, other Election Commissioners can also be removed by the President of the Republic on a report made by the Union Parliament (supported) by two-thirds majority in each House—the Lok Sabha and the Rajya Sabha) on grounds of proved misbehaviour or incapacity. Further, before every general election to the Lok Sabha and to the Vidhan Sabha of each State, the President of the Indian Union may also appoint such Regional Election Commissioners as he may consider necessary to assist the Election Commission in the exercise of its functions. Lastly, the Constitution



of India guarantees the independence of the members of the Election commission including its Chairman. Their salaries and allowances fall in the items of non-votable expenditure. That is, they are charged upon the Consolidated Fund of India.

**Functions :** The major functions of the Election Commission as embodied in our Republican Constitution and the Representation of the People's Acts (amended from time to time) are stated briefly :

(1) to exercise superintendence, direction and control of electoral rolls for the elections to the Parliament and State Legislatures as well as the Presidential and Vice-Presidential elections.

(2) to notify the date/dates for the submission and withdrawal of nomination papers of the candidates.

(3) to recommend date/dates for holding elections in different constituencies of the Union Parliament and the State Legislatures.

(4) to conduct elections to the offices of the President and the Vice-President of our Republic.

(5) to conduct elections of the representative of the Union and the State Legislatures.

(6) to designate and nominate the Returning officers for election to the Parliament and State Legislatures.

(7) to request the President or the Governor of a State as the case may be to make available of the necessary staff for conducting elections.

(8) to exercise supervision direction and control over the Chief Electoral officers of the States in conducting elections.

(9) to determine the number of the seats to be reserved for the scheduled castes and the Scheduled Tribes in the Lok Sabha as well as the Vidhan Sabhas of the States.

(10) to advise the President of India or the Governor of a State as the case may be in deciding whether a member of Parliament or of a State Legislature is subject to any disqualification.

(11) to enquire and settle disputes connected with the election arrangements with the assistance of the Returning officers or any other officer appointed by the Election Commission.

(12) to conduct bye-elections to fill in vacancies arising from time to time in Parliament and the State Legislatures.

(13) to issue a code of conduct to be observed by all political parties, candidates and people at the time of elections.

(14) to settle a dispute regarding allotment of symbols to a political party (or the parties) at the time of parliamentary or Assembly elections.

In this connection, we may point out that the election disputes are now dealt with by the High Courts of the States. The Constitution of India ensures that the Parliament and Assembly elections are conducted freely and impartially. The Election Commission functions on an all India basis. There is no separate Election Commission for a State. A centralised election machinery alone will be able to eliminate the possibility of the State Governments acting in an unconstitutional manner. Again, it has been pointed out that the appointment of the members of the Election Commission by the President on the advice of his Prime Minister may make room for the exercise of politics influence. Hence, the constitutional experts opine that the President should appoint the Election Commissioners on the recommendations of a committee including the Chief Justice of India and the Leader of the opposition of the Lok Sabha.

**Q. 65.** Discuss the nature of electoral trends or voting behaviour in Indian Political System.

**Ans.** The democratic republic of India, in its size, population and resources is the world's highest parliamentary democracy. In terms of its electorate, it is also the world's largest participatory political system based on universal adult franchise, which is effectively exercised at regular periodic elections (at present in our coalition politics 3 to 5 years) to the Parliament (Lok Sabha) and States Legislative Assemblies. The Indian electorate has increased, since the first general elections in 1952, as a consequence of the increase in population by over 130 percent in just four decades. Indian electorate was 173.21 million in 1952 (first general elections) and with the reduction of age of voting from 21 to 18 by the Sixty-first Amendment to the Constitution in 1989, it increased to 498.64 million in the Ninth general elections (1989). And it had further increased to 619.0 million in 1999 (Thirteenth Lok Sabha elections) and again to 65 crore in 14th general elections. Interestingly, this electoral population is equal to the total electoral population of the world's fifteen most

advanced democratic countries (i.e., America, England, France, Canada, Germany, Switzerland etc.)

It is true that in our political system since 1952, the electoral awareness has grown, knowledge about parties, candidates and issues has expanded, the feeling of efficacy of the competitive party system and parliamentary democracy has been demonstrated by the deeper involvement of the people in politics and by a fairly high level of participation in elections general and regional. But the choice of the voter for a candidate or a party is a difficult task. Many complex factors determine the voting behaviour and some of them may be analysed below :

(1) In India, the party identification was fairly stable between 1947-1967. With the older members dying and new members entering the electorate (since the Ninth general elections, 1989), the proportion of strong party identifiers has considerably decreased. Now young voters dominate the electorate which accounts for the sharp decline in the party identification. Nevertheless, the industrial workers, the agricultural farmers, the party activists and their families, the vote banks like the scheduled castes and tribes and the Muslims generally exercise their votes on party lines. (2) It is said that—with the decline of the party system in India, the image of the party leader has assumed greater significance. The image that a leader projects is more within his/her control. It overcomes many shortcomings of the party and enhances some of its advantages. For example; Nehru, Indira Gandhi (Congress Party) and Atal Behari Vajpayee (BJP) have won elections on the strength of their personalities and images.

(3) The candidate orientation is also an important political voting determinant in our Lok Sabha and Assembly elections. Like the image of the party leaders, the image of the party candidate also accounts for the people of the areas when they make voting choices. Many well-known ruling and opposition leaders have been voted to power because of their integrity and honesty of purpose.

(4) In our democracy, the election outcomes of the past twentyfive years have been considerably influenced by issue orientations. And domestic issues affecting the most people most directly have proved crucial. In every general election since 1971,

the Indian electorate have voted on national issues involving unity and integrity of India, effective Government etc. It is true that the rural voters of the country is more concerned with the local and regional problems during the poll.

(5) In the recent years, sex has received special attention as an important influence on political behaviour. Women participation which was as low as 37 percent in 1952 Lok Sabha elections increased to 60 percent in the Fifth General Elections in 1971. Again, when issues concerning women's rights and interests find place in the party manifesto or the party leader or candidate happens to be a woman, the women voters come out in large numbers to express their preference. During Indira Gandhi's regime, the Indian women voted in large numbers and that too for the Congress Party—mainly because of their sex affinity.

(6) Education and income are two others determinants of the voting behaviour in India. The poor and uneducated electorate are the least likely to vote because they have a little stake in election's outcome. But voting turnout in India among the higher educated groups and rich sections tends to be lower than among the illiterate and poor. The reason for this is not far to seek. The majority of the India voters are poor and illiterate. They are open to all sorts of temptations. The rich candidates often exploit this situation to ensure a maximum turnout of the poor voters on the polling day. It is said that the festival atmosphere of the elections in rural areas also tends to result in higher voter turnout. However, when other vital issues grip the people's mind, the monetary considerations lose their relevance.

(7) According to Rajni Kothari, the caste factors are still very important voting determinants, although their influence varies greatly. In some elections, in some States and in some communities the importance of the caste is still great and is increasing. For example, in States like Haryana, U.P. and Bihar where the majority of the voters are Jats, Rajputs, Thakurs and Yadavs etc., the caste factor is a powerful determinant. It is not without reason that newspapermen, while assessing the trends and results of elections, often take into account the caste breakup of the voters.

(8) Though India is a secular State, majority of us think in terms of Hindus, Sikhs, Muslims, Jats, Thakurs etc. Taking advantage of this communal thinking on our part, the political

parties operate on the basis of religion and community. For example, the Muslim League claims to be the representative of the Indian Muslims, the Akali Dal is held to be a political party of the Sikhs; while the Bharatiya Janata Party (BJP) is a party of the Hindus. Similarly, the Bahujan Samaj Party is primarily a party of the Dalits, while the DMK and AIADMK represent the upper middle-class of non-Brahmins of Tamil Nadu. All these divisions and formations on the religious and communal bases do have a bearing on the political outlook of the voters. In India, there has never been a single General or State election (Lok Sabha or State Assembly) in which the bonds of the community, religion and language have not affected the judgement of some sections of the voters.

(9) With the decline in the strong party identifiers, there has been a corresponding increase in the number of floating voters in the style of elections in Indian political life. These switchers have no party loyalties. So, they create a political climate for a wave and prove a decisive factor in the electoral outcomes. These young educated electors are always ready to shift their support from one party to another, if they find that the party they had voted for in the previous elections had not lived up to their expectations.

The meaningful studies of the above discussion reveal the fact that the political, social (caste, religion, language and community) and economic factors have determined the voting behaviour in our electoral politics. Most of the voters prefer the gradual and peaceful modernisation of the castes, tribes and religion rather than a wholesale revolutionary restructuring of the entire society.

**Q 66.** Discuss the main features (elements), of election procedure (process) in India.

**Ans.** The Republic of India, in its size, population and resources is the world's biggest parliamentary democracy. In terms of its electorate. It is also the world's largest participatory political system based on universal adult franchise, which is effectively exercised at regular periodic elections at all levels of governance—from the grassroots three-tier Panchayati Raj and Nagarpalikas to the State Legislative Assemblies and the Parliament. In our indirect democratic political system, the people elect their representatives to rule over them but have control on them. The

main features of the Indian election processes are as follows :-

(1) We have an Election Commission on All-India basis. There is no separate Election Commission for our federating units (States). The administrative machinery for conducting elections (both Union and States) works under the supervision, control and directions of the Election Commission of India.

(2) The Section Commission registers political parties for the purpose of elections, grants them the status of National or State parties on the basis of their poll performance. Presently, only that party will be treated as an All-India party or a National party which has been recognised in four or more States (e.g. Vidhan Sabhas) and/or has polled not less than four per cent (4%) of the total votes polled at the election of the last Lok Sabha. The Election Commission also allots symbols to the National and State parties and independent candidates too. It has also been empowered to settle symbol-disputes.

(3) There is single general electoral roll for every constituency for elections to the Lok Sabha or the Vidhan Sabhas and not separate rolls for different religious communities as during the British colonial period. For registration of a citizen as a voter, it is stated that no discrimination would be made on grounds of the religion, race, caste or sex. Right to vote is denied only on the ground of non-residence, unsoundness of mind, record of crime or of corrupt and illegal practice.

(4) The India electorate has increased, since the first general elections in 1952. It was 174 million in 1952 and with the reduction of the age of voting from 21 to 18 by the 61st Amendment Act (1989), it increased to 498 million in the Ninth elections of 1989. In the fourteenth Lok Sabha elections (2004), the number of electorate was 653 million. It was 56% of India's total population. Interestingly, this "electoral population" is equal to the total electoral population of the world's fifteen most advanced democratic countries (i.e. England, America, Russia, France, Canada, etc). Again the Lok Sabha or any of the State Legislative Assemblies may be dissolved before its term of five years has expired. Consequently, the electoral rolls will have to be kept upto-date all the time so that the new Lok Sabha or Assembly election may take place without any difficulty.

(5) For elections to the Lok Sabha and the Vidhan Sabhas, the



basic unit of voting is the single-member territorial constituency. The number of seats in the Lok Sabhas and the Vidhan Sabhas in proportion to the population is normally determined periodically on the basis of ten-yearly census. However, the 42nd Amendment Act (1976) provided that until the figures for the first census after the year 2000 have been published, it shall not be necessary to readjust the allocation of seats to the States in the Lok Sabha. It has been decided that the maximum membership to the Lok Sabha may go up to 550. Further, the Constitution provides for reservation of seats for the Scheduled Castes and the Scheduled Tribes to secure for them an adequate representation, in order to help them catch up with the development process.

(6) After the announcement of the date of election, the candidates file their nomination papers with the Returning officer. They are allowed to withdraw their names from election before the last date for withdrawal. We are to note that the qualifications of candidates for both the Lok Sabha or the Vidhan Sabha are—citizenship of India, 25 years of age in Lok Sabha and 30 years of age in Rajya Sabha and enrolment of names in the voter list. After the last date of withdrawal, the final list of candidates contesting in each particular constituency is published.

(7) The political parties issue their election manifestos which contain programmes and promises (e.g., problems of Centre-State relations, social justice, public health and education, economic reforms etc.) with a view to attract the largest number of voters. And in order to make them effective, they use various techniques such as public meetings and rallies, advertisements, medias like press, radio and television, etc. Now-a-days, electronic media plays the most effective role in creating people's awareness about programmes of the political parties.

(8) Polling personnel (presiding and polling officers) are appointed and polling booths are set up in different localities. Each polling booth on an average caters to about 1000 to 1500 voters. The voting is by secret ballot. In the case of electronic voting, the presiding officers advise the voters how to press the right button. Again, the Election Commission, if convinced of disorder or irregularities, can order repoll.

(9) After the polling has ended, the ballot boxes or the electronic voting machines are sealed and carried under custody

to the counting station. Then the process of counting the votes begins. The candidate who obtains the highest number of votes is declared elected.

(10) The Election Commission is empowered to control the administrative and financial aspects of the elections. For example, the Election Commission sends Central observers (mostly senior bureaucrats) to sensitive constituencies to ensure free and fair elections. It also sends Auditors to audit the expenses incurred by the candidates. And the candidates are required to file an account of the election expenses before them.

(11) After the declaration of results, if any candidate is dissatisfied with the impartiality of elections, he/she can move the High Court or the Supreme Court to settle the election-disputes.

Q. 67. Explain the major weaknesses in the Indian electoral system. Also mention some reforms that have been introduced in our electoral process.

Ans. We claim to be the largest democracy in the world, undertaking huge electoral exercises at periodical intervals. This claim of ours is not wellfounded. Since the adoption of the Constitution (1950), India has conducted fourteen general elections (2004). But many infirmities and weaknesses have gradually revealed in our electoral process. The major drawbacks (weaknesses) of our electoral system are as follows :—

(i) the executive has not evolved very sound conventions in regard to the office of the Chief Election Commissioner ; (ii) the role of unaccounted money in elections, promoting corrupt practices ; (iii) wide divergence between the proportion of votes polled by a party and the number of seats it obtains in the Lok Sabha or the State Legislative Assembly (e.g., voting trends of the B.J.P. in the Thirteenth Lok Sabha elections of 1999—Votes—24%, Seats—182) ; (iv) misuse of official position and official machinery by the Central and State ministers for party and election purposes ; (v) arbitrary transfer of officials on a big scale on the eve of elections for posting in crucial constituencies, ostensibly to help the ruling party ; (vi) inadequate procedure of preparation of electoral rolls, involving exclusion of several *bona fide* citizens and inclusion of certain bogus voters ; (vii) loopholes in poll petition rules, which makes it difficult to prove corrupt

practices indulged in by and on behalf of a candidate ; (viii) lack of clear rules prohibiting parties and groups from indulging in communal, caste and parochial propaganda that impairs the secular structure of the State and weakens the process of national unity and integration ; (ix) induction of criminals in election politics, as candidates, leaders and activists ; (x) intimidation and impersonation of voters especially from weaker sections and women voters ; (xi) both capturing and bogus voting in certain constituencies.

*Recent electoral reforms* : Since 1996, many reforms have been introduced in the Indian electoral system. Some of them may be noted below : (a) The period of effective campaigning (i.e., the period between the date of withdrawal and the date of poll) was reduced from 20 to 14 days ; (b) conviction from insult to the National Flag and the National Anthem would entail disqualification for contesting election for six years ; (c) In future, no election was to be countermanded on the death of a candidate. However, if the deceased candidate belonged to a recognised party, the election would be adjourned. The party concerned would have the right to nominate another candidate ; (d) The bye-election should be held within six months from the date the vacancy occurs ; (e) The security deposit for Parliamentary elections was raised from Rs. 500 to Rs. 10,000 and for state Assembly elections from Rs. 250 to Rs. 5,000. The security deposit was enhanced as a measure to check the multiplicity of non-serious candidates ; (f) The expenditure ceiling for a Lok Sabha candidate was raised to 25 lakh. However in 2004, the Election Commission decided that top 40 (forty) leaders of each party (national and regional)—some of them may not be candidates—could spend unlimited amount as election-related expenditure ; (g) The money spent by the candidates or on them would be from the party fund ; (h) The money spent by the candidates and/or their parties was to be reflected on the Income Tax returns to be filed by the respective parties ; (i) Unrecognised political parties could submit a list of only 20 candidates and/or leaders to the Election Commission ; (j) Advertisement with religious and political ends would not be shown on Television networks ; (k) Nomination papers filed by each candidate would accompany with his/her educational and properly qualifications

and also past history (insolvency, bankruptcy, proven criminal records etc) ; (l) Re-polls would be held in those booths or constituencies where large-scale violence occurred and unfair means [rigging and booth capturing etc.] were resorted to ; (m) Political parties would refrain from criticism of all aspects of private life of a candidate or the leaders of his/her party ; (n) The official tours by the Ministers would be suspended in the period between the announcement of elections and the declaration of results. The Ministers and other authorities would not sanction grants out of discretionary funds from the time elections were announced ; (o) The transfers and postings of officials on a large scale on the eve of elections would be avoided, (p) Both the individual candidates and their political parties would be required to submit audited accounts of electoral expenses within a fixed period of time to the Section Commission ; (q) The Candidates in the Lok Sabha poll fray would submit a daily report on campaign expenditure to the district election officer.

But legal provisions [The Representation of the People Acts of 1950 and 1951 as amended from time to time] and electoral reforms [as enlisted in the code of conduct] may not by themselves guarantee fair elections and healthy political atmosphere. What is needed is the development of an enlightened citizenry capable of vigilance against corrupt practices and misuse of power and influence. All parties and candidates contesting elections should affirm their adherence to the principles, values and goals inscribed in the Preamble to the Constitution, as the basic credo of the Indian political system, which they are called upon to uphold and to defend.

Q. 68. Examine the success and failure of Universal Adult Franchise in India.

Or,

Discuss the case for and against the Universal Adult Franchise in India.

Ans. The Republic of India, in its size, population and resources is the world's biggest parliamentary democracy. In terms of its electorate it is also the world's largest participatory political system based on universal adult franchise, which is effectively exercised at regular periodic elections at all levels of governance—from the grassroots three-tier Panchayati Raj and

Nagarpalikas to the State Legislative Assemblies and the Union Parliament [Lok Sabha]. In a considerable measure, all this is the fulfilment of the goals of the national movement for independence and the fruits of the heroic struggle, waged by the Indians for a new dawn, for a better and just India and for a vibrant democratic identity.

One of the boldest and the most courageous acts of the constituent Assembly was to accept and adopt the principle of Universal adult franchise for the people of India, as the main method of democratic representation in the Lok Sabha and in the Legislative Assemblies [Vidhan Sabhas] of the States. In the Republican India, the adult universal franchise has established in principle, though not always in effect, the sovereignty of the people. The Constitution of India affirms that all people of India are free and equal, irrespective of caste and creed, race and sex, descent and domicile, education and property, profession and ideology. In a word, it proclaims that the people will be treated as individual citizens precisely because they are members of a common national fraternity. In the eyes of law, the Indian citizen today vote as Indians and not as Hindus, Muslims, Christians, Sikhs etc. The phrase "we the people of India" in whose name the Constitution of India has been adopted and enacted and given to themselves, clearly implies that the people have a collective national solidarity, a collective will and a national political sovereignty.

The Indian electorate has increased, since the first general elections of the Lok Sabha and the Vidhan Sabhas in 1952, as a consequence of the increase in population by over 140 percent in just five decades. It was 173 million in 1952 and with the reduction of the age of voting from 21 to 18 by the Constitution [Sixty-first] Amendment Act of 1989, it increased to 498 million in 1989 Ninth Lok Sabha elections. In the Thirteenth General Elections [1999], the number of electorate was 620 million and it increased to 650 million in 2004 Fourteenth Lok Sabha elections. It was 56 percent of India's total population. Interestingly, this electoral population is equal to the total electoral population of the world's fifteen most advanced democratic countries [i.e., America, England, France, Germany, Canada, Australia etc.]. Or looking at it differently, it is equal to the actual total population

of men, women and children in the six major democratic countries of the world, that is, America, Canada, England, Britain, France, Australia and New Zealand put together.

Since 1952, electoral awareness has grown, interest in elections has increased, knowledge about parties, candidates and issues has expanded, loyalty to parties has been considerable, the feeling of efficacy of the competitive party system and parliamentary democracy has been demonstrated by deeper involvement of the electors in politics, and by a fairly high level of participation in elections—even slightly higher than in some of the western democracies, including the U. S. A. and Great Britain. In India, the voter turnout in the Lok Sabha elections from 51 percent in 1991 [Tenth General Elections] to 61 percent in 1999 [Thirteenth Lok Sabha Elections]. It has uniformly been higher than 58 percent since the Sixth Lok Sabha Elections in 1977. And increased participation in Lok Sabha and State Legislative Assemblies elections has been noticed both in the urban and rural areas.

Since the Fourth General Elections in 1967, a relatively high level of political activity has been maintained. The cadre of political activists in different parties is made up of persons from diverse social backgrounds, rural and urban, several professional groups, different religious communities and castes. The greatest increase in political participation is seen among those with education above the high school level, with upper caste family background and middle income level. But over the years political activity and awareness have also increased among those at the lower rung of income and educational ladder. Indeed political education in India has been fairly high, despite illiteracy and poverty right from the days of struggle for freedom, but more so after the introduction of the democratic system.

It has also been established by election studies that while a large proportion of the voters prefer some liberal ideology and support the existence of mixed economy, planning and developmental goals, they are also at the same time under considerable influence of their caste and religious groups. Most of them prefer the gradual and peaceful modernisation of their castes, tribes and religion rather than a whole sale revolutionary restructuring of the entire society.



Lastly, some constitutional experts have favoured the lowering of voting age to 18 [since 1989]. Their arguments are : /a/ it provides the younger generation a sense of participation in the democratic process, and /b/ it has introduced a dynamic element in elections and has also made parties and their representatives more conscious of the aspirations, problems and needs of the youth.

There are also certain negative aspects of the electoral scene which have been determined partly by the socio-economic environment and partly by the way the electoral system is made to work.

In an unequal society—divided between the rich and the poor, the educated and illiterates, the well-employed and unemployed, between those who have access to social amenities like schools and colleges, recreation and entertainment; and those who are denied even elementary necessities of life like clean drinking water, adequate food, clothing and shelter etc. Opportunities offered by the political system and electoral change are also not equal. In the words of Nehru, political democracy should inevitably lead up to economic democracy.

Five decades of planned development have accounted for considerable growth. But despite all this growth, a startling fact remains—massive poverty of a large number of people. This also influences electoral politics. Illiterate and poor voters tend to be influenced and manipulated by caste leaders and communalist politicians acting as power brokers. They quite easily mislead them in the name of caste and community and turn them into pockets of influence and vote banks. Further, they are also swayed by the populist slogans used by crafty politicians, making hollow promises to win votes. Again, money power is used to buy votes and sometimes muscle power is used to intimidate voters, either into putting block votes, or for abstaining from polling. Lastly, sometimes inter-caste and inter-community tensions are engineered by the political dadas on the eve of elections, resulting occasionally in riots, violence, loot and arson.

Critics are of opinion that the lowering of voting age to 18 has made the number of voters more unmanageable. For example—[498 million in 1989] [Ninth General elections to 650 million in the Fourteenth Lok Sabha elections, 2004] and the election

process also has become more expensive [e.g., Exchequer's cost—Rs. 880 crores in 1999 to Rs. 1,300 crores in 2004]. Again, the involvement of immature youth at 18 may lend itself to populism and political instability at the centre [e.g., coalition Governments since 1989].

By and large, elections in India have been free and fair. They have been conducted with remarkable success. The Indian experience has been particularly impressive partly because of its dimensions and the relative inexperience of the people with elections and partly because of the illiteracy of the great majority of the voters. Commenting on the performance of the Indian voters in elections, Morris Jones has observed. "They are one of the things Indians.....do well." Further-more, there is, no doubt, much enthusiasm in our country in favour of providing greater opportunity to the youth in the management of national affairs.

## 12

## THE MINORITIES IN INDIA

Q. 69. Give an account of the special constitutional provisions in favour of the Scheduled Castes and Scheduled Tribes and discuss briefly the value of such provisions.

Ans. The fundamental object of the Constitution of India is to secure to all citizens justice, liberty, equality and fraternity. But a large section of the population of India belong to backward classes. They may be classified into Scheduled Castes and Scheduled Tribes. There is also the Anglo-Indian Community in India.

The Constitution of India does not define the Scheduled Castes and the Scheduled Tribes. According to Articles 341 and 342 of the Constitution, the President of India may, after consultation with the Governor of a State, specify those castes, races or tribes which are considered to be Scheduled Castes and Scheduled Tribes in a State. In West Bengal, for example, Bauri, Bagdi belong to the Scheduled Castes. On the other hand, Lapcha, Bhutia are recognised as Scheduled Tribes.

The Constitution of India makes certain special provisions for the protection and safeguards of Scheduled Castes and Scheduled Tribes with the object of promoting their various interests.

[1] The Constitution of India has made special arrangement for the reservation of some seats for the Scheduled Castes and the Scheduled Tribes to the House of the People and to the Legislative Assembly of every State.

[2] The claims of the members of the Scheduled Castes and the Scheduled Tribes are taken into consideration in the appointments to services and posts in connection with the affairs of the Central Government and the State Governments.

[3] According to the Constitution, the Minority Commissions for Scheduled Castes and Tribes are formed by the President of India whose duty is to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled

Tribes under the Constitution of India. The Commissions concerned submit their reports to the President on the working of the safeguards. And the reports are laid before the Houses of Parliament by the President.

[4] The President of India may appoint a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States.

[5] The Union Government may give directions to the States for the execution of schemes which are essential for the welfare of the Scheduled Tribes in the States.

[6] Moreover, the Central Government may give financial assistance to a State for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas in the State.

[7] The Constitution of India declares that in the States of Bihar, Madhya Pradesh and Orissa there must be a Minister in charge of the welfare of the Scheduled Castes.

[8] In accordance with the provisions of the Constitution, Parliament has enacted the Protection of Civil Rights Act [1976] which prescribes penalties for preventing a person on the ground of untouchability from entering a place of public worship, institution etc.

[9] The Constitution of India provides for the prohibition of administration against any citizens on grounds of religion, race, caste etc. But the State can make special provisions for the promotion of the Scheduled Castes and Scheduled Tribes.

[10] According to the Constitution, all citizens have the right to move throughout the territory of India or to acquire, hold or dispose of property. But the State may impose reasonable restrictions in the interest on any Scheduled Tribes.

[11] The Constitution of India provides for the throwing open of Hindu religious institutions of public character to all classes and sections of the Hindus.

[12] The Constitution also declares that no citizen can be denied admission into any educational institution maintained by the State or receiving aid out of the State funds on grounds of race, caste etc.

[13] Lastly, it is the duty of the State to promote the educational

and economic interests of the Scheduled Castes and the Scheduled Tribes and to protect them from social injustice and all forms of exploitation.

Therefore, the Constitution of India has taken some concrete steps for the promotion of welfare of the Scheduled Castes and Scheduled Tribes. For, they are backward in social, economic and political spheres of life. Hence, the constitutional provisions for their protection are fully justifiable. Our democracy will be a failure if we do not look after the interests of the Scheduled Castes and Scheduled Tribes etc.

13

### PARTY SYSTEM AND PRESSURE GROUPS IN INDIA

Q. 70. Discuss the nature of party system in India.

Ans. India's party system originated in the late nineteenth century as a response to the British colonial challenge. In the long drawn struggle against imperial domination, it represented an assertion of national solidarity of the Indian people for building eventually a new structure of democratic India. The beginning of the Indian party system can be traced to the formation of the Congress as a political platform in 1885. From a triumphant national movement, the Congress became a dominant political party. Other parties and groups emerged later. For example, The Muslim League in 1906, the All India Hindu Mahasabha in 1916 and the Communist party in 1925. For over six decades [1875-1947], under the shadow of the British Raj, the growth and role of the Indian party system was conditioned by the communalisation of politics which fragmented national unity, divided the people on caste and community lines disrupting the development of a secular party system in India. Therefore, when India became independent, our party system was in disarray. After the adoption of a democratic Constitution [in 1950], a new and different party system emerged in the wake of the first General election based on the universal adult franchise in 1952.

In the Republic India, the party system is a part of our larger political system. It is a product not only of its political environment but also of its history, culture, geography and economy. Many aspects of the Indian political system have a bearing on the nature of our party system. These aspects include the character of the State, the declared national goals, the diversities of India's regional cultures and compulsions of social change and economic development. The democratic India maintains an open society, promotes secular politics, respects free media, follows the pattern of separation of powers between the legislature, the executive and the judiciary and adheres to the principle of rule of law. It is also the most stable and evolving democratic federal polity among the comity of the newly liberated countries of the world.



Contemporary politics in India is really the politics of national reconstruction, the politics of modernisation, the politics of integration and politics of development. In this context, the party system in India plays the role of a political instrument of socio-economic change. It mobilises people not merely for electoral politics and winning of seats in Legislature, but more importantly for building awareness and enthusing people for nation building, state-building, citizen-building and democratic identity-building. We are to note that the Indian federal system has an inbuilt tilt for a stronger centre, that is, a system in which the structural functional balance is in favour of the Centre.

In this background, three factors are important :

[a] national unity and political integration, national socio-economic development and national defence and security. This characteristic has facilitated the emergence of the Congress as the dominant party in the Indian political system after independence ;  
 [b] the Indian polity has never been ideologically polarised. India is a classic example of depolarised polity. This aspect of Indian political culture has provided the frame-work for the growth of the multi-party situation in India and [c] the regions in India are sub-national units. Naturally, the rise and persistence of regional demands has resulted in the emergence and popularity of the regional parties. As a consequence of these three factors, the Indian party system has exhibited its two main features : [1] one party dominance, within the framework of the multi-party situation in the Centre, and [2] a multi-party system in some States run by a combination of regional parties, or coalition of national and regional parties.

After independence, the Indian party system in five decades of its functioning has witnessed seven States of growth ; [a] 1952-1964—the Nehru era ; the epoch of national consciousness ; [b] 1964-1969—the uneasy transition marked by the emergence of multi-party situation ; [c] 1969-1975—the period of new consensus and of increasing inter-party conflict ; [d] 1975-1977—the emergency authoritarian period ; [e] 1977-1980—the Janata phase of coalition politics ; [f] 1980-1989—the uneasy phase of tussle between the Congress and the Opposition in the Centre and also the Congress and the regional parties at the States, and [g] since 1989—the transition from multi-party situation to a coalition Government at the Centre.

In terms of geographical spread, there are four types of parties in our political scene—All-India parties, trans-regional parties, regional parties and local parties. In terms of orientation, there are parties of left, right centre and leader oriented parties. Among the left, there are Communist parties and socialist groups, among the right there are traditional parties formed around religious community and caste.

Indian party system has been unique. It has revolved around the Indian National Congress Party. There has been a plurality of parties, but that does not always make the Indian party—system a multi-party phenomenon. It reflects rather an environment of multi-party situation in the country. In this connection, it may be pointed out that in the thirteenth Lok Sabha elections held in September-October, 1999, the Election Commission has recognised five political parties as All-India Parties—the Bharatiya Janata Party [BJP], the Indian National Congress [INC], the Communist Party of India [Marxist] [CPIM], the Bahujana Samaj Party [BSP] and the Communist Party of India [CPI]. Besides, there are more than 50 regional parties and also many political groups or organisations which appear on the eve of every general elections.

It is true that the party system is the life breadth of the successful working of Indian Parliamentary democratic system. But the number of political parties should be restricted and the political parties, both national and regional, participating in the democratic process of our nation's governance must themselves be democratic in their internal organisations. Moreover, they need to be regulated and disciplined by law. And the Party elections must be regular, free and fair. Party accounts must be duly audited and open to the Public.

Q. 71. Analyse the main features of the Party System in India.

Or,

What are the distinctive characteristics of the Indian Party System.

Ans. India is the biggest democratic country in the world and hence the existence of political parties here is a natural one. But in India, the political parties have not developed on the same pattern as they have grown in England, America and other

Western countries. Political parties in India did not originate to dethrone the ruling aristocratic group but to fight against the British imperialist domination by starting a national movement for freedom. The beginning of the Indian party system could be traced to the formation of the Congress as a political platform in December, 1885. From a triumphant national movement the Congress became a dominant political party. Other parties and groups [e.g., the Muslim League, the Hindu Mahasabha, the Communist Party etc.] emerged later. When India became independent, our party system was in disarray. However, after the adoption of a democratic Constitution [in 1950], a new and different party system emerged in the wake of the first general election based on the universal adult franchise in 1952. At present there are many national, State and regional parties vying with one another for political power. The Indian party system exhibits some fundamental features analysed below :-

[1] In India, the political parties are extra-constitutional growth. That is, our written Constitution does not acknowledge the existence of political parties. However, the Representation of the People's Acts [1950 and 1951 as amended from time to time] have mentioned the nature, code of conduct and other norms of the party system. Besides, Article 19 [1] [C] empowers the citizens to form political associations. Lastly, the Constitution [Fifty-Second] Amendment Act has been passed in 1985 in order to remove the evil effects of political defections in our parliamentary politics. Yet the political parties are central to our political process. As the party system and democratic Government are synonymous in our parliamentary practice, the political parties are necessary in Indian political scene because they form a bridge between the Government [Legislature and Ministry] and the governed [Electorate] which gives meaning to the representative system. To the Indian democrats, therefore, political parties appear as the arteries of the body politics.

[2] India has neither a single party system as it obtains in China nor a bi-party system as it prevails in countries like Great Britain and America. Here operates a multi-party system as obtaining in France, Japan, of Switzerland. Because of the vastness of the country and diversity of views, opinions, faiths and ideology, political parties in India are of a heterogeneous character. The

Election Commission in India has recognised four to six parties as All-India parties—Indian National Congress, B. J. P. and two Communist parties—C. P. I & C. P. I. [M]. Besides there are more than fifty [50] regional or State-level parties [e.g. DMK and AIADMK in Tamil Nadu, National Conference in Kashmir, Akali Dal in Punjab, R. S. P. and Forward Block, Trinamool Congress in West Bengal etc.] and also many political organisations appear on the eve of every general election. And their participation in electoral politics indicates the fact of India's having the largest number of parties in the world. This is the reason that since 1989, we have witnessed the transition from multi-party situation to a coalition Government at the Centre. In the thirteenth General Election of Lok Sabha [1999] the B. J. P. and its allies in the National Democratic Front [NDA] have obtained a clear majority in the Lok Sabha and constituted the coalition Government at the Union.

[3] It has been aptly remarked that India has one dominant party system without any effective rival to the Indian National Congress [except the B.J.P. in 1999 General election]. The Congress popular votes in our thirteenth General parliamentary elections [1952-1999] have given it the character not only of a dominant party in the multi-party situation in India's parliamentary system, but has also made the Indian National Congress the one and the only All-India party in terms of its territorial spread, electoral appeal and political ramifications. The Indian National Congress has dominated the Central politics from 1947-1977, 1980-1989, 1991-1996. The blessings and curses of the Congress party have determined the rise and fall, even the very survival, of other parties struggling to have their names somehow on the sociological map of India. It is rightly said that India can no longer be correctly described as a one-party State, but there is still some truth in such a characterisation so far as the national scene is concerned.

[4] We know that there has been a mushroom growth of national, regional and personalist parties in India. It is all the more disturbing that from the Jana Morcha to the Jatiya Ganatantrik Front and so on, little prickly political plants have spread their roots and branches afar. This unusual growth of political parties is the result of a series of complex interrelated

development. This proliferation of parties is not in the national interests. As long as there are too many parties, there is no possibility of the emergence of a strong opposition party in our parliamentary democracy.

[5] In the Indian political scene, there is an absence of clear and specific policies and programmes of the parties. Practically all the political parties [with the exception of the Communists] simply put the ideology on the back burner. They look alike in their vision as well as strategy. In short, the ideological divide between the political parties—national or regional—has become so thin that the members of one party cross into another party without least inhibition and sense of guilt. Furthermore, the Indian political parties have hardly any faith in democratic ideas and traditions. Although our major political parties are hostile against revolutionary methods, they are sometimes hostile against one another on minor issues. Besides the political parties and their leaders exploit the regional, linguistic, caste and communal differences among the ignorant and illiterate Indians to serve their own ends.

[6] From the organisational point of view, the Indian party system has suffered at the hands of both the leaders and their followers. A leader of towering personality is free to make or break a political party. He can change the name of the party at his convenience [e.g., Sarad Power and his Nationalist Congress Party]. To the critics, the old monarchical tradition remains well entrenched in India. For that reason, the Indian party system values the role of the charismatic leader, perhaps too much. Again, we live in a patriarchal society where leaders do their best to promote their sons to top positions in their respective parties. They are seeking to clamp dynastic rule. Obviously, the leader has more importance than the party.

[7] The opposition in India has been quite strong at the ballot box. The total votes received by all the opposition parties has always exceeded that of the ruling party. Despite this, they have not been able to throw up a credible national alternative. In our parliamentary democracy, the opposition parties have been able to throw the V. P. Singh's National Front Government out of office by passing a vote of no-confidence against it in 1990. In India, the opposition is still a peculiar combination of splinter parties and groups who often speak with cross purposes and

suffer inherent contradictions because of their rightist and leftist attitudes towards the Government [e.g. Women's Reservation Bill, Construction of Ram Mandir and Babri Masjid, the Lokpal Bill, etc.]. This is the reason that in the history of our parliamentary coalition politics the B. J. P. led the National Democratic Alliance Government has been for the first time able to complete its full tenure [1999-2004] at the Centre. No other coalition Governments in 1977, 1989, 1996 did so.

[8] Political parties in India are characterised by laxity of discipline. The legislators at the Centre and the States [with the exception of the Communists M. P.'s and M.L. A.'s] quite often flout their respective party directives and when disciplinary action is contemplated against them, they threaten to quit the party and join some other party. Such defections have been in vogue right from the very beginning [1952 elections], but they have increased so much after the Fourth Lok Sabha Election [1967] that the parliamentary democratic system has seemed to be an utter failure in India. In order to remove the effects of political defections, the Congress Government of Mr. Rajiv Gandhi [Eighth Lok Sabha election of 1984] has passed the Constitution [Fifty-Second] Amendment Act in 1985. A member of the Union Parliament or a State Legislature would incur disqualification [a] if that member voluntarily gives up the membership of his/her own party, or [b] if a member votes against the party or abstains from voting contrary to the directives of his/her own party. It is true that the Anti-defection Law has ushered a new era in our parliamentary politics, but the evils of political defections are not removed. Even now, we find many examples of defections.

The detailed analysis of the peculiarities of the Indian party system clearly brings out the shortcomings of the political parties. Unlike the British system of parliamentary parties, the Indian party system lacks many important qualities which are essential for smooth running of our parliamentary Government. Multiple party system, lack of organised political parties, end of dominance of a single national party, presence of regional and communal parties, absence of strong opposition, political defections etc. are not healthy, things of the success of India's parliamentary democratic Governments both at the Centre and in the States. Thus it is essential that the political parties with identical views



should organise an effective opposition. There is no need of any grand alliance as it pollutes the political atmosphere instead of solving the major problems facing the country.

**Q. 72. Discuss the ideology and programmes of the Indian National Congress.**

**Ans.** The Indian National Congress is the oldest political party in the country. It has the privilege to be in the vanguard of the mighty national movement which brought freedom to the country. This organisation was founded in December, 1885. From a triumphant national movement the Congress became a dominant political party. The Indian National Congress since independence has been the most pervasive political force in the country. It has been both an All-India party and a regional-cum-local party, often playing two different roles at the two levels of the Indian polity, i.e., National and State levels. It has been a macro political system, holding together micro sub-systems factions, forums, groups, lobbies, etc., which constantly interact on the political processes of the Congress party, providing it simultaneously a multi-caste, multi-community and a multi-class base. Ideologically it has rightist, leftist and centrist strands within it.

Indeed the "umbrella character" of the Indian National Congress has been its hallmark. It includes within its fold, a wide range of ideological, caste, regional and interest groups, mutually antagonistic, but united by a common bond of survival and political ambition for power and prestige in the country's largest political party. Taking advantage of its flexible posture in politics, the many groups and classes attempt, to change its direction and policies to suit their sectional purposes and political perspectives.

The political support structure of the Indian National Congress covers the entire rural hinterland of the subcontinent and almost all the towns and cities in practically every region of the country providing it with almost a continuous popular electoral support base in the parliamentary elections.

The policies and programmes of the Indian National Congress are as follows :

[1] *Political* : [a] to promise to the people a stable and experienced Government ; [b] to discard the idea that a coalition Government of regional parties can be a true reflection of our federal character ; [c] to carry on a relentless fight against

terrorism and all other anti-national activities ; [d] to make Panchayats and Nagarpalikas as the true voices of the people ; [e] to pledge to appoint a Lokpal to control and contain corruption ; [f] to amend our Constitution in order to reserve one-third of all Parliamentary and Assembly seats for women ; [g] to preserve the country's unity and integrity ; and [h] to bring sweeping reforms in judiciary.

(2) *Economic* : (a) to pursue an employment-oriented development strategy ; (b) to redouble efforts to augment food production in poor regions ; (c) to double annual expenditure on poverty alleviation and social development programmes ; (d) to allow private and foreign companies Insurance sector and (e) in introduce insurance scheme for weavers, handloom workers, leather and plantation workers.

(3) *Social* : (a) to protect the interest of minorities in public services and Government agencies ; (b) to accord Urdu language in Uttar Pradesh and Bihar and also to set up the middle level technical institutions in clusters for minorities, (c) to promise 6 percent GDP investment in education by the year 2005, and (d) to ensure the passage of new reservation law to eliminate confusion about reservation provision for the Scheduled Castes and Scheduled Tribes.

(4) *Foreign Policy* : (a) to pursue objectives of peace or disarmament ; (b) to make the National Security Council more purposeful and to reorganise the defence establishment ; (c) to enlarge mutual understanding and co-operation with the United States and Russia and (d) to continue, useful exchanges of views on important international and bilateral issues with the United Nations.

*Organisational Structure* : The Indian National Congress is a highly centralised party with a very complex organisation. It is organised around local village units, districts, provinces and on a national level. Under the organisational structure of the Indian National Congress, the highest body is the All-India Congress Committee. The next chief executive of the party organisation is its Working Committee. Below to it is the Parliamentary Board. In the State level, the highest party organisation is the Provincial Congress Committee. Next is the District Congress Committee and below to it is the Block Congress Committee. The lowest unit is called the Ward Committee.

The Indian National Congress's popular votes in the thirteenth General parliamentary elections (1952-1959) despite being less than 50 percent in every election (1952-45%; 1967-40%; 1977-34%; 1984-49%; 1989-39%; and 1999-28% 2004-145 seats) has nevertheless been more than the percentage of votes of any other party. The capacity of the Indian National Congress is attracting popular electoral support and obtaining a majority of seats in the Lok Sabha (except in 1977, 1989, 1996, 1998, 1999) at the Centre has given it the character not only of a dominant party in the multi-party situation in India's parliamentary democratic system, but has also made the Congress the one and the only All-India party in terms of its territorial spread, electoral appeal and political ramifications. All other parties are at best, as of now, trans-regional and multi-State parties or uni-State and regional parties and despite some of them claiming to be All-India in name and ambition.

The Indian National Congress has always been either in power or has been the largest opposition party in Parliament (in 1977, 1989, 1999). It has always had broader support in most States of the Indian Union than any other party. The Indian National Congress has always been a tolerant party accommodating almost every shade of opinion. For a hundred years now, the Indian National Congress has remained the main political organisation of the Indian people. Its achievements and lapses, its strength and weakness and its moments of glory and tragedies have all been an integral part of the Indian political scene.

**Q. 73. Discuss the ideology and programmes of the Bharatiya Janata Party (B.J.P.).**

**Ans.** The Bharatiya Janata Party (B.J.P.) established in December, 1980 is the new and modified version of the Bharatiya Jana Sangh that was founded in October, 1951. The B.J.P. has points of continuity with the Jana Sangh in its discipline and well-knit organisational set up and in its linkage with the traditional Hindu socio-cultural organisations—Rashtriya Swayamsevak Sangha (R.S.S.) and the Vishwa Hindu Parishad (V.H.P.). With certain variations in its political perspective and policy orientation, the B.J.P. has close affinity with the erstwhile Jana Sangh.

The Bharatiya Janata Party like its predecessor the Jana Sangh has a strong electoral support base in the Hindi belt especially

among the small and medium traders and shopkeepers in the urban and the rural areas, among the traditional business community in Vaishyas and Jains, among the masses attuned to the traditional view of politics but also among the middle level professionals and service personnel. Since 1980, it has extended its influence to pockets in South India, particularly in Kerala, Karnataka and Andhra Pradesh. After 1989, the B.J.P. has also spread its influence in Madhya Pradesh, Rajasthan, Gujarat and Delhi.

The policies and programmes of the Bharatiya Janata Party are as follows :

(1) *Political* : (a) to promote clean public life by evolving effective mechanism to break the nexus between the corrupt bureaucrats, politicians and businessmen; (b) to strengthen the institution of Lok Pal and Lokayukta Institutions; (c) to have a five (5) year term for all elected bodies (e.g. the Lok Sabha and the Vidhan Sabhas) and (d) to introduce thorough going electoral, judicial and administrative reforms in the country.

(2) *Economic* : (a) to give the States a fairer share of Central revenues and increase their financial powers; (b) to earmark 60-70 percent of the plan funds for public investment in agriculture, rural development, irrigation, etc.; (c) to adopt a National Water Policy to provide for an effective and prompt settlement of water disputes between the States and (d) to continue reforms process to aim at removing unemployment.

(3) *Social* : (a) to guarantee to all minorities—linguistic and religious—peace and security and full opportunity for progress and development; (b) to widen the scope of the present Minority Commission; (c) to provide a set of social services for the speedy development of rural folk; (d) to take strong action against those fanning communalism and religious fundamentalism and (e) to support equal legal rights for women of all communities, abolition of child labour and introduction of compulsory primary education.

(4) *Foreign Policy* : (a) to work towards re-imparting dynamism to the non-aligned movement; (b) to work actively towards reviving the morale of the defence forces; (c) to pursue a policy of peace, friendship and co-operation with the neighbouring countries; (d) to strengthen SAARC and establish a regional

common market and (e) to provide for active solidarity with countries which are subject to U.S. aggression like Iraq.

The ideology of the Bharatiya Janata Party is based on positive secularism; Gandhian socialism; value based politics; restructuring of the agrarian system; genuine non-alignment; regional co-operation with the neighbouring countries etc.

The B.J.P. popular votes in six general parliamentary (Lok Sabha) election (1984-1999) at the Centre has given it the Character of a dominant party in our parliamentary democratic system (voting trends of the B.J.P. in Lok Sabha election and seats obtained by the party—(1984—8%, seats—2; 1989—11%, seats—86; 1991—20%, seats—119; 1996—21%, seats—161; 1998—25%, seats—180 and 1999—24%, seats—182, 2004—seats 138. With the 25 years of activity in politics, the Bharatiya Janata Party's population and influence in our parliamentary democracy is probably next to the Indian National Congress. The B.J.P. led National Democratic Alliance won in the thirteenth Lok Sabha elections (1999) and formed the Union Ministry. The B.J.P. should be praised in Indian coalition politics because its Government has been able to complete the full tenure (1999-2004).

**Q. 74.** Discuss the policies and programmes and also the organisational structure of the Communist Party of India (Marxist).

**Ans.** Among the national political parties in Indian political scene, mention may be made of the Communist Party of India (Marxist) or popularly known as the CPI(M). It is the Country major Communist party and has a great political significance. The Communist Party of India (Marxist) has been formed in 1964. It has a unified leadership, heading a tightly knit party organisation.

The Communist Party of India (Marxist) believes that India has already gone too far on the capitalist path and there is need now for the establishment of a people's democracy under the leadership of the toiling masses. It stands for agrarian reforms and abolition of all forms of landlordism by the imposition of effective ceiling on land-holdings. The CPI(M) would like to replace the existing order by a new system which should be free from inequalities, caste system and exploitation of the weaker sections of the society. The marxist Communist Party rejects the contention that the choice for the people should always be reduced to a BJP-

led alliance or a Congress alternative. For the future of secular democracy, national unity and to advance the struggle for social justice, it is essential that the CPI(M) and other left parties work for an effective third alternative. The chief allies of the Left Front would be the agricultural labourers and poor peasants in the country. Even the middle peasants and other sections of the society could become allies upto a point. The CPI(M) has been more aggressive in its demands than the CPI.

The policies and programmes of the Communist Party of India (Marxist) are as follows :

(1) *Political* : (a) restructuring the Centre-States relations so as to ensure more powers for the States and the power of the Centre to dismiss State-Governments be exercised only in extreme contingencies; (b) stability and cohesion to India; (c) plead for a democratic secular Government at the Centre; (d) maximum autonomy for the State of Jammu and Kashmir by revising Article 370 of the Constitution; (e) the federal system has to be institutionalised by activating the Inter-State Council and empowering the National Development Council with sufficient powers; (f) amendment of the Anti-Defection Law so that any elected representative (M.P./M.L.A.) who leaves the party has to vacate the seat forthwith; (g) constituting a National Judicial Commission for appointment of the Judges of the High Courts and the Supreme Court; (h) fight against the authoritarian Government and withdrawal of all repressive legislations like NSA and ESMA and (i) denouncing corruption in high places, etc.

(2) *Economic* : (a) protecting the economy from the assault of multi-national corporations and strengthening the public sector by injecting fresh capital in the core and strategic areas; (b) comprehensive insurance schemes for crop and cattle and greater allocation for irrigation facilities; (c) handing over surplus land above the ceiling to the landless persons; (d) barring foreign companies from entering the insurance sector; (e) strengthening and expanding the public distribution system and (f) curbing high prices and framing protective legislation for unorganised workers, etc.

(3) *Social* : (a) incorporation of the right to work as a fundamental right in the Constitution; (b) free and compulsory



education to all children upto the Higher Secondary stage ; (c) developmental and democratic socialist ideology ; (d) fight against atrocities on women and other weaker sections of the community and (e) protection of just rights of the minorities etc.

(4) *Foreign Policy* : (a) working for an independent and non-aligned foreign policy and defending India from imperialist pressures ; (b) democratising the Security Council and the U.N. structure ; (c) promoting friendship with the socialist countries and (d) supporting world peace.

The Communist Party of India (Marxist) has been well organised and disciplined, with a dedicated cadre of activists. Election result reveal that the CPI(M) has attracted more votes in constituencies with literacy level and in which the voter turn out has been higher.

The Marxist Communist voters have been well distributed in the rural and urban areas and have been the highest among the backward classes, low income and educated unemployed groups. A section of the scheduled castes and tribes and the Muslims also vote for them. The Marxists greater influence is in the non-Hindi States. The CPI(M)'s main support base is more concentrated in West Bengal, Tripura, and Kerala and also in Andhra Pradesh, Assam, Bihar and Punjab etc. The Communist Party (Marxist) has been in power in the States of West Bengal and Tripura.

The Marxist Communists popular votes in seven Lok Sabha general elections has give the CPI(M) the character of an All India Party in our parliamentary democratic system. (Voting trends of CPI(M) in the Lok Sabha elections and the seats obtained by the Party—[1980—6%, seats—36 ; 1984—5%, seats—22 ; 1989—7%, seats—33 ; 1991—6%, seats—35 ; 1996—6%, seats—33 ; 1998—5%, seats—33 and 1999—5%, seats—33 and 2004—9%, seats—43].

In this connection, we are to note that the Communist Party of India (Marxist) is guided by the principles of democratic centralism. According to it, in the hierarchical structure of the CPI(M), every organ is elected directly by the members, or indirectly by their representatives. And the lower organ is bound to obey the decisions and directives of the higher authority.

Under the organisational structure of the Communist Party of India (Marxist), the highest body is the Central Committee. Next to it is the Politbureau. Besides, the Party has a Secretariat at a national level. In the provincial field, the State Committee is the highest organ. There is also District Committee in each district. Below it is the Zonal Committee. And next to it is the Local Committee. Lastly, there is also a Control Commission to take disciplinary actions against those members who have flouted the rules of the party.

Q. 75. Explain the reasons for the emergence of Regional Political Parties in India.

Ans. Regionalism is a strong feeling of pride or loyalty the people in a region have for that region, often including a desire to have more power to govern themselves. The essence of regionalism is characterised by a widely shared sentiment of "togetherness". We can easily identify such regions as Chattisgarh in Madhya Pradesh and Jharkhand in Bihar (recently obtained Statehood). Besides, Bodoland and Assam and Ladakh in Jammu and Kashmir are distinct regions. Normally regionalism finds expressions in three kinds of demands—(i) demand for regional autonomy (e.g., Tamil Nadu and Punjab); (ii) demand for separate Statehood (e.g., the Gorkhas in West Bengal and Bodos in Assam) and (iii) desire to secede from the Indian Union (e.g., Mizos and Nagas etc.).

Regionalism in India is an extremely complicated phenomenon, for within every region there are sub-regions. These have given birth to political parties more parochial in their affiliations than the State-wide parties. These parties sometimes play a crucial role. The regional disparities have given rise to a feeling known as regionalism. It is not surprising to find the growth of regional parties especially in the less developed regions. The regional parties—the DMK and AIADMK, Asom Gana Parishad, Nagaland People's Council etc.—maintain that the problems of their regions are not being attended to by the Union Government. Besides there are also major regional parties like the National Conference, Telugu Desam Party, Akali Dal etc. They are sore about the lack of educational facilities, good roads, water, electricity and communications in their respective areas.

The reasons for the emergence of the regional parties in India are described below :

(1) The emergence of regional parties in Indian political scene has a geo-political rationale. The continental size of the country, comprising well-defined and distinct socio-cultural regions, with their own languages and dialects, specific patterns of caste, community and tribal formations, has provided the objective conditions for the rise of regional parties and groups. Regions in India are sub-national units. Under conditions of freedom and a democratic political system, the regions are bound to demand and quite legitimately, their autonomous right of self-development. This is the logic of the federal system. Naturally, therefore, the rise and persistence of regional demands is inevitable. This has resulted in the emergence and popularity of the regional parties in India.

(2) In India, there the regions which are far away from the national capital. People living in some of the regions Warn the Centre and the national parties for not knowing their real problems. The tribals inhabiting North-Eastern regions, for instance do not identify themselves with the national parties. Instead, they have had real sympathy for the real parties—Meghalaya's People's Front, Sikkim Democratic Front, Manipur State Congress Party etc.

(3) The birth and growth of regional parties is closely related to the organisational lapses of the Indian National Congress (or the Congress party) over the years. When the Congress was strong in organisation and ideology, the regional parties were paractically non-existent. As the Congress organisational fabric weakened, the regional parties were encouraged. Later on, the India. National Congress has been degenerated into a personality cult organisation. As a result, the regional parties have grown in strength and number. Most regional parties, have grown in the last two decades as instruments to capture the non-Congress space in their respective States.

(4) In the Southern regions of our country, some of the leaders have tried to portroy the North India as expansionist, hegemonic and even imperialist in the designs. This inbuilt animosity between the North and the South has been further accentuated by identifying the Northern leadership as Aryan,

Brahmanical and Kshatriya, trying to dominate the Dravidian, non-brahmin low and middle caste groups imbued with a democratic ambition to play a free and equal role in our political system. The DMK in Tamil Nadu is the classic example of a party being fed on Anti-North, Anti-Brahmin, and Anti-Hindi stance for a long time. But now the two Southern parties—The DMK and ALADMK—have shed many of their old prejudices.

(5) One way of expression of political autonomy in our federation is the formation of regional political parties in order to bargain with the Centre for a better deal or regional development. For instance, the State like Punjab, West Bengal, Tamil Nadu, Kerala, etc. stand for a truly federal structure with greater powers to the federated units in economic and political spheres.

Most regional parties have come to stay as important political formations enjoining sizeable electoral support. Again, many of these parties in effect have a characteristic similar to pressure and interest groups, both in their size and role in our political system.

Q. 76. Describe the different types of regional parties in India. How is a regional party different from a national party?

Ans. Regionalism in India is a extremely complicated phenomenon, for within every region there are sub-regions. These have given birth to political parties more parochial in their affiliations than the State-wide parties. These parties sometimes play a crucial role. It is not suprising to find the growth of regional parties especially in the less developed regions.

Legally speaking, there is no regional party as such provided for by any law of the land Our Election Commission recognises two types of parties—national parties and State parties. In general parlance, the-State parties are termed as regional parties. At the time of elections to the 13th Lok Sabha held in September-October, 1999, there were 48 regional parties recognised by the Election Commission as State parties.

There have been three types of regional parties in India.

First, experience has shown that the Congress Party as a national party had neglected to give adequate importance to its regional and State Units. Over the years, there had been discontent expressed by the State leadership again the oversight or lack of democratic propriety shown to them. In this situation, it was not too difficult for an alternative political format to emerge in the shape of regional parties. Thus, for years the Congress dissidents,

off and on, formed several regional parties and groups, mostly short-lived and often for an adhoc purpose as a bargaining counter. Examples of this have been the Bangla Congress, the Kerala Congress, the Vishal Haryana Parishad and the Telengana Praga Samiti.

*Secondly*, the second type are tribal parties as focal points of building a tribal political identity and as a platform for obtaining more concessions from the Centre. They have often talked even of secession from India and demanded complete independence. Examples of this trend have been the militant movements, like the Naga National Council, the Mizoram National Front, the Manipur People's Party etc. The All Party Hills Leaders' Conference—the principal political organ of the hill people—has played a formative role in the emergence of Nagaland and Meghalaya, its role has also facilitated the creation of other States in the region. In Sikkim, the Sikkim Congress and the Sikkim Scheduled Caste League are active parties. The Jharkhand Party has been in existence almost since independence. And the Gorkha league of West Bengal has slowly developed into a well-knit organisation and with the establishment of a Council, it has acquired an administrative forum for the settlement of its demand for Gorkha Autonomy.

*Thirdly*, the third type of regional parties are larger political formations in ethnically, culturally and linguistically defined regions like Tamil Nadu, Andhra Pradesh, Punjab, Kashmir and Assam. These parties are bigger in their composition, well-knit in their organisation and more stable in their role as important components of the multi-party system in India. Because of their electoral majority in the State Vidhan Sabhas, they also have the capacity to send their members to the Lok Sabha and the Rajya Sabha and play a critical role as a balancing factor between the ruling party and the major, opposition parties in the Parliament. After the 1984 elections, for instance, the Telugu Desam Party (TDP) became the largest opposition party in the Lok Sabha. It has also been an important partner in the National Democratic Alliance Government (1992-2004). For years the DMK and the AIADMK members had been a factor of consequence in a Parliament. In Assam, the Asom Gana Parishad (AGP), represents a cross-section of the Assamese people and follows a policy of progressive development.

In India's federal democratic polity, regional and local parties would continue to have relevance and appeal, especially for certain dominant social and economic interests. Their influence waxes and wanes in the context of national parties. Several regional parties become coalition partners of national parties in forming State Governments.

#### National Party and Regional Party—Differences

The differences between a national party and a regional party are as follows :

*First*, the national parties have influence all over the country or many States of India (e.g., the Indian National Congress). On the other hand, the influence of a regional party extends to one State or a few regions (e.g., the Telugu Desam party of Andhra Pradesh).

*Second*, an exclusive symbol (such as "Hand" for the Indian National Congress) is reserved for a national party throughout the country. But in case of a regional party, a symbol is reserved for it in the State in which it is recognised. For instance, the symbol of "Rising Sun" for DMK of Tamil Nadu.

*Third*, the regional parties usually stand for greater autonomy for States. For example, the DMK and AIADMK of Tamil Nadu, the Akalis in Punjab and the National Conference in Kashmir have been demanding greater autonomy for quite sometime. But the National parties have to harmonise many conflicting regional interests, e.g., border disputes, language problems etc.

*Fourth*, that party will be treated as a National Party which recognised in four or more States in the Indian Union (e.g., the Indian National Congress). On the otherhand, for being recognised as a Regional Party in a State, it should have been engaged in political activity for a continuous period of five years (e.g., the National Conference in Kashmir).

*Lastly*, the national parties are more concerned with national interests, whereas regional parties protect and promote mainly regional interests. For example, the insurgency in Kashmir and the North-East, import of foreign capital and technology, fiscal reform and financial discipline, foreign trade, environment etc.



are the concerns of national parties. But the regional parties concern themselves with local or regional matters. The DMK for instance, has been by the Tamilians as defender of the Dravidian culture. Again, the leaders of regional parties in Karnataka or Tamil Nadu look only towards their respective States for the Kaveri waters.

**Q. 77. Analyse the role of the regional political parties in India Politics.**

**Ans.** The continental size of the country, comprising well-defined and distinct socio-cultural regions with their own languages and dialects, specific patterns of caste, community and tribal formations, provided the objective conditions for the rise of regional parties and groups in Indian political scene. Regions in India are sub-national units. Under conditions of freedom and democratic political system, the regions were bound to demand and quite legitimately, their autonomous right for self-development. This is the logic of the federal system. Naturally, therefore, the rise of regional demands was inevitable. This resulted in the emergence and popularity of regional parties.

Legally speaking, there is no regional party as such provided for by and law of the land. The Election Commission in India recognises two types of parties—the National parties and the State parties. In general parlance, the State parties are termed as regional parties. At the time of the elections to the 13th Lok Sabha held in 1999, there were 48 regional parties recognised by our Election Commission as State parties.

Most regional parties have grown in the last three decades as instruments to capture the non-Congress space in their respective States and sometimes they play a crucial role in State politics. The regional parties—the DMK and AIADMK, Asom Gana Parishad, Nagaland People's Council etc., maintain that the problems of their regions are not being attended to by the Central Government. Other major regional parties like the National Conference, Telugu Desam Party, Akali Dal etc. are some about the lack of educational facilities, good roads, water, electricity and communications in their respective regions.

In the early years of Indian independence, the role of regional

parties in our democratic political system was just nominal. They were not a force to be reckoned with. But with the general elections held in 1967 brought them in forefront in State politics and many of them joined coalition Governments in various States (e.g., the S.U.C. in West Bengal United Front Governments of 1967 and 1969) of the Indian Union. Though after 1967, the regional parties started playing their role in the Indian politics, but despite this the Indian party system continued to be more or less a single party dominant system and the Congress was the dominant party. But the election to the Ninth Lok Sabha held in 1989 brought forth a hung Parliament since no single party got absolute majority in the Lok Sabha. Again in 1991, none of the parties succeeded in getting absolute majority in the Tenth Lok Sabha. The elections held in April-May 1996 repeated the earlier precedents and no single party could get an absolute majority in the Eleventh Lok Sabha. Nine regional parties and four national political parties joined hands together and they constituted Front which formed its Governments at the Centre. It was for the first time that the regional parties emerged as dominant factor in national politics. In the present political scenario of the country, the role of the regional parties has become all the more important. The I.K. Gujral Government at the Centre was also a Government of 13 national and regional parties. At the time of 12th Lok Sabha Elections (February-March 1998), no single party could get an absolute majority in the Lok Sabha. 17 regional and 2 national parties joined hands together under the leadership of the B.J.P. and formed the Government at the Centre. And in the Thirteenth Lok Sabha elections of September-October, 1999, the regional parties like DMK, Samata Party, National Conference, Akali Dal, Trinamul Congress etc. were a part and parcel of the Union Government led by Bharatiya Janata Party.

In our coalition politics, the multi-party system has made the national political parties dependent on regional parties since no all-India party was in a position to secure absolute majority in the Lok Sabha (since the Ninth General Election, 1989). Because of this compulsion, the national political parties are constrained to conclude electoral alliances with the regional parties. Most regional

parties have come to stay as important political formations enjoining sizeable electoral support. In India's federal democratic polity, regional and local parties would continue to have relevance and appeal, especially for certain dominant social and economic interests. Many of these parties, in effect, have a characteristic similar to pressure and interest groups, both in their size and role in the political system. Their influence waxes and wanes in the context of national parties. Several regional parties become coalition partners of national parties in forming State Governments. Some regional parties however, remain stable and major political formations in few States. In short, in our parliamentary coalition political system, the national parties cannot afford to ignore the regional political parties.

**Q. 78. Discuss the role of the Opposition in the Indian Parliament.**

**Ans.** The Constitution of the India is written. Like Great Britain, India has also adopted the parliamentary form of Government in the country. But the political parties have not been mentioned anywhere in the Constitution of India. They are extra-Constitutional. In spite of this, the political parties are indispensable in our parliamentary democratic system. They have greatly influenced the electorate, the ministry and the Parliament. In a word, the political parties have made the Constitution workable.

Like the Britishers, the Indians also believe that the parliamentary democracy is a Government by consent or criticism. Democratic Government like ours means not only a majority but also a minority. The parliamentary Government discharges its duties because of the role of the opposition. In our parliamentary democratic political system, the role and importance of the opposition cannot be overemphasised as the proper working of the entire Governmental machinery depends upon it. As a matter of fact, our parliamentary democracy cannot be successful without a strong and well organised opposition in the Lok Sabha.

In India, because of multi-party system, no opposition party could effectively challenge the ruling party at the Centre until

1977. In the Sixth General Election [1977], the country had for the first time an official opposition [e.g., the Indira Gandhi's Congress Party] in the Lok Sabha. But in the Seventh [1980] and Eighth [1984] General Elections, the opposition parties became again very pathetic. However, in the Ninth General Elections [1989], the Congress party acted as a recognised and formidable opposition party. In the Tenth [1991] and Eleventh [1996] Lok Sabha Elections, the Bharatiya Janata Party [B. J. P.] enjoyed the status of the main opposition party. On BJP-led Alliance assuming the reins of powers in the Twelfth and Thirteenth [1998 and 1999] General Elections, the Indian National Congress became the official opposition in the Lok Sabha. In the Fourteenth Lok Sabha elections (2004), the BJP enjoyed the status of main opposition party.

The opposition has an important role to play in our democratic party system. It exercises adequate checks on the Government. The opposition party highlights the errors or omissions and commissions to prevent the ruling party from acting arbitrarily and whimsically. The opposition is entitled to criticise and even bring a censure motion against the Union Ministry. The opposition keeps the Government alert to make a correct decision. When the Government has a clear majority in the Lok Sabha, the opposition cannot expect to throw it out of office. The opposition keeps the people alert about the undemocratic activities of the Government through the press, platform and other medias. The fear of losing powers makes the Union Ministry to discharge its duties and the responsibilities in the larger interests of the people. It is true that the opposition parties over the years never spared the Government when it was found negligent in its duties. They raised their voice against inflation, unemployment and antidemocratic measures such as NSA, ESMA, POTA etc.

Under the pressure of Opposition, the Parliamentary Committees have been constituted from time to time to expose the weaknesses and failings of the Ministers and administrative agencies—e.g., Bofors Affairs, Bank Securities Scam, Tahalka case etc. The parliamentary investigations are also regarded as the means through which Parliament can obtain detailed and accurate

information as to what legislation is needed for the country. Parliamentary debates and investigations led to the resignations of the Ministers in the past.

In India's system of parliamentary practice, the opposition has come to be regarded as a shadow cabinet, or alternative Government, or Government in reserve. A leader's task on the opposition bench is no less important than that of a minister. Thus the important members of the opposition get specialised in a particular activity, like external affairs, financial matters defence and the railways. Like in Britain, our parliamentary democracy also admits the claim of opposition to criticise. And the opposition criticises in order to win the public support against the Ministry. However, the opposition in our democracy does not always like to discredit the Government. Its main role is to compel the Union Government to formulate its plans and policies in the national interest.

However, it should not be supposed that the opposition is always opposing and that its role is only to obstruct and harass the Government. There may be genuine differences between the ruling and opposition parties, yet they should agree on certain fundamentals. For example, there is very little scope of disagreement about electoral reforms, programmes of decentralisation, making Panchayats and other local bodies functionally autonomous and more powerful fighting corruption, judicial reforms and ameliorating the lot of workers and poor peasants. Similarly no party would compromise on country's unity, integrity and sovereignty or curbing terrorism. If differences hardly exist, there is no need for the parties to be at loggerheads always.

In this connection, we may point out that in England, the opposition is strong and well-organised. It plays an important role in the British parliamentary Government. But in India, the opposition is still a peculiar combination of splinter parties or groups who often speak with cross purposes and suffer inherent contradictions because of their rightist and leftist attitudes towards the Government. The role of the opposition parties in Women's Reservation Bill, construction of Ram Mandir and Babri Masjid,

the Lok Pal Bill confirm this point. This is because the different opposition parties in our Parliament sometimes present a confused picture.

On realistic analysis, the workings of Parliament reveal the fact that the oppositions are not disciplined. The opposition gets involved in irresponsible and damaging activities also. Blocking the business of the Lok Sabha through dharnas and gheraos and calling for adjournment motions to score brownie points have yielded no fruitful results but the Indians loss a lot of money. It has been estimated that the every minute in the Lok Sabha and the Rajya Sabha costs the nation Rs. 15,700 or Rs. 9,42,000 per hour. Further, a source in Parliament said that the unruly scenes, chaos and disruptions have led to a 10.60 percent loss of time during the Twelfth Lok Sabha.

Therefore, it should be realised that by adopting extra-Constitutional methods, the opposition [Party or Parties] cannot defeat the Government, nor can they win the admiration of the electorate. Hence, there has to be a certain balance and mutual trust between the Leader of the Lok Sabha [Prime Minister] and the Leader of the Opposition. It should not be forgotten that one who leads the opposition is the Opponent of the Government he is not the enemy of the country. The Government should carefully weigh the opinions of its opponents. And the opposition is also expected not to look at things always negatively. As the secret of the success of the parliamentary democratic Government [ours also] lies in the control of the Union Ministry by the Lok Sabha, the opposition should exercise a constructive role in the workings of Parliament.

Q. 79. Discuss the problems of the Indian Party System. Suggest what steps may be initiated to improve the party system in India.

Or,

Enumerate the shortcomings of the Party System in India.

Ans. The Founding-Fathers of the Constitution of India have displayed abundant faith in the common man at the time of conferring voting rights on all persons regardless of sex, religion, caste or colour. The success of our parliamentary democratic



Government depends on the existence of two or three strong and well-organised political parties and observance of democratic norms by the parties. But the Indian party system is confronted by many problems.

*First*, the political parties are devoid of leaders, committed to their ideology and democratic norms. Opportunism and opportunistic alliances have demoralised politics and made it a sordid affair. For instance, the Indian masses have given a massive mandate to the Congress Party in 1984 Lok Sabha elections. The party's image got sullen because it drifted away from its principles and its promise to give a clean Government. Such a crisis abounds practically in all the parties which have a loose organisations. The promising young men and women tend to shun politics because of the deeds of such leaders as have made it a dirty game.

*Second*, India has had a multi-party system. Before 1977, there was no political party in the Lok Sabha which could be accorded the status of the official opposition. The Ninth Lok Sabha [1989] of the National Front Government led by V. P. Singh, was confronted with a formidable opposition party, e.g., the Congress Party. After four consecutive uncertain verdicts [1989-1998], the Thirteenth General Election [1999] yielded a conclusive verdict. The coalition Governments have come to stay at the Centre. Also in the Fourteenth Lok Sabha elections of 2004. But the Bharatiya Janata Party and the Indian National Congress are now emerging as the two major poles of Indian politics. Therefore, it seems likely that even coalition Governments might give a strong and efficient, Government to the country.

*Third*, the role of money and muscle powers in our General Elections have adversely affected the working of political parties. For example, in our General Election, the cost of advertisements released by the parties to the Press also has been reported to be around 600 to 700 crores of rupees. Where does all that money come from? The only answer is that the Indian National parties are dependent on the capitalists and big industrial houses for their election funds. Thus corruption must be attacked at all levels. Again, the muscle-power sets at naught people's faith in the electoral process.

*Fourth*, the Indian political parties are faced by the problems of casteism, regionalism, linguism and communalism. It is not that only illiterate voters are swayed by these factors. Even the most sophisticated persons [electors] are found whipping up regional and communal passions. Our General Elections to the Lok Sabha have revealed that for all the talk of protection to the weaker sections of the society, the participation by these sections in the electoral process is fraught with peril to themselves.

*Fifth*, our political parties need to have clear cut ideology and the party-workers have to imbued with a sense of discipline. But in India, the menace of defection is so all pervading that the members of one party join the opposing party without least inhibition and sense of guilt. Even the Anti-defection Act has failed to solved this problem.

*Sixth*, the structure of most of our political parties is far from being democratic. Organisational election are not held regularly [with the exception of the Communists] and all powers of the party are vested in its Chairman and a few party oligarchs. To the critics, the old monarchical tradition remains well entrenched in India. For that reason, the Indian values the role of the charismatic leader, perhaps too much. Again, we like in a patriarchal society where the leaders do their best to promote their sons to top positions in their respective parties. They are seeking to clamp dynastic rule. Obviously, the leader has more importance than the party. Therefore, the party gets weakened if its Chairman [President] is not getting proper feedback from partyworkers operating at various levels. Again, the power brokers in the party should be boycotted.

Followings are the main suggestions for the improvement of the party system in India :

[1] The number of political parties participating in the processes of our nation's governance should be restricted to five All-India parties.

[2] The organisational matters of Indian political parties must be on democratic lines. That is, it is necessary to regulate our party system by ensuring internal party democracy [regular, free

and fair elections], declaration of sources of party-funds, audit of accounts etc.

[3] Recognition should be granted only to those political parties which can master a minimum percentage of votes. For all-India recognition, the percentage of votes secured should not be less than 10 percent of the previous election.

[4] The parties which are based on caste and religion should not be recognised and they should not be allowed to participate in elections.

[5] The disqualifying defectors must be debarred from holding any public office.

**Q. 80. Discuss the nature and characteristics of the Pressure Groups in India.**

**Ans.** In our liberal democracy, the whole of the country is not absorbed within political parties. There are also several organised groups and organisations representing the varied interests of its citizens. They interact among themselves and with the Union and State Governments. The presence and role of specific Pressure Groups augment and supplement the role and purposes of the political parties. They are part of the wider political process. In a modern democratic State [like also ours], the Pressure Groups are often called the "invisible Government" or the "unofficial Government".

When sovereign India by its democratic Constitution in 1950 affirmed as fundamental right of its citizens [in the famous Article 19 dealing with Right to Freedom], the protection of freedom of speech and expression; of assembly, association and Union and of practising any profession or business; it literally and operationally sanctioned the development of party system and pressure groups and also independent press and media. This was one of the greatest triumphs of the national movement, one of the most glorious bequests of the enlightened founding fathers of our Republic. The pressure groups in their origin, nature and work are conditioned by the structures of State and government, the pattern of the party and the political culture and attitudes of leaders and the people.

The pressure group may be defined as an organised aggregate

which seeks to influence the content of Governmental decisions without attempting to place its members in formal governmental capacities. In other words, the pressure groups do not themselves want to form the Government, but they try to influence the decisions of the Government. Thus, every pressure group has three elements—[a] an organised group of people, [b] the common interests and [c] exercise influence on the decisions of the Government. In short, the pressure groups cause the legislators, or ministers or bureaucrats to act in a particular way by offering arguments or employing other techniques as the case may be.

It may be pointed out that the "pressure group" is a term applied to those interest groups [e.g., Trade Unions like the I.N.T.U.C. and the C.I.T.U.] which use different pressure tactics including extra-Constitutional methods [dharna and gherao] to pursue their goals. All pressure groups are interest groups, but all interest groups [e.g., the Federation of Indian Chambers of Commerce and Industry of FICCI] need not be pressure groups. The term "interest group" is a neutral designation, but the term "pressure group" implies coercion, putting weight to persuade and possible abuse of influence. The pressure group has a derogatory flavour.

From the above, the nature of pressure groups becomes quite clear. In brief, their characteristics are as follows : —

[1] The objectives of the pressure groups are very limited. That is, every pressure group has one special interest which it seeks to promote. For example, the Bank Unions fight for their rights, whereas the Kishan Sabhas safeguard the interests of the farmers.

[2] In India, the political institutions determine and shape the activities of pressure groups and their main targets. In our parliamentary democracy, since the Union Cabinet and Civil Service are more effective, it is useful to get access to them. Therefore, the ministers, the bureaucrats and certain party leaders are more important for effective pressurising.

[3] The Indian party system greatly influences the pressure groups activities. In our multi-party system, the coalition

Governments at the Centre are unstable because they are formed by an alliance between various parties. In such a situation the pressure groups do well. The powerful industrial organisations and trade unions make a bargain with the leaders of the various parties. For example—the Indian National Trade Union Congress [INTUC] is close to the Congress Party and the All India Trade Union Congress [AITUC] has strong ties with the Communist Party of India. Again, in India's multi-party system, due to lack of party discipline and ideological commitment, the pressure groups have worked more effectively among the elected representatives—the legislators. And this has been the experience in the Indian Parliament and in State Legislatures as well.

[4] In India, the work of the pressure groups is determined by the political culture of the country. It means the approach, attitudes, beliefs and orientation of the citizens to political actions and towards the political system. For example, India, by its traditional pattern of toleration of different groups and approaches and in pursuance of its open society approach, allows all types of pressure groups [associational, institutional and ad-hoc] to work, including non-democratic groups.

[5] The nature of the issue or problem which a pressure group is projecting also conditions its method of work. For instance, in Indian political system, if the Teachers Association is asking for a revision of grades, its method of influencing and its target group would be different from that of a trade union fighting for higher wages, or from a Chamber of Commerce trying to get concessions on foreign exchange etc.

[6] The activities of the pressure groups depend upon the economic system as well. In our mixed economic system, the Chambers of Commerce and the Manufacturer Organisations operate in a number of different ways to exert pressure on the Union and State Governments in Indian federalism.

[7] In our democratic system, every pressure group by its own nature and characteristic, employs different approaches, methods and tactics. Big business pressure groups like the Chambers of Commerce and Industry sometimes make out as if what they are seeking to do is in national interest. They are pursued more

discreetly and secretly. Trade Unions [CITU, AITUC, INTUC, etc] are more militant, organise gheraos and dharnas; students and youth organisations [SFI] tend to get violent. Service organisations [civil servants, scientific personnel etc.] establish useful contacts with the bureaucracy.

The characteristics of the pressure groups reveal that the influence that a pressure group can exercise depends on several factors. The most important factor is its own organisational strength [for instance, the FICCI representing over one lakh firms, or the All India Manufacturers Organisation representing a large number of smaller industries etc], and discipline and perseverance of its members in pursuing an issue. Among other factors are its capacity to elicit people's sympathy and support for its cause, its access to decision-making bodies and its financial resources etc. Thus the pressure groups provide a necessary link in the functioning of our democratic political system and in extending the concept of representative responsible Government.

Q. 81. How many types of Pressure Groups are currently working in India? Describe the nature and working of any two of them.

Ans. In our liberal democracy, there are several organised groups and organisations representing the varied interests of its citizens. They are called pressure groups or the invisible Government. That is, the pressure groups do not themselves want to form the Government, but they try to influence the decisions of the Government. In short, the pressure groups cause the legislators or ministers or bureaucrats to act in a particular way by offering arguments or employing other techniques as the case may be. The pressure groups are part of the wider political process and also conditioned by the political cultures, attitudes and beliefs of the people.

The number of pressure groups in India is very large. They may, however, be put into four categories depending upon their aims or interests.

[1] Associational pressure groups based on traditional social structures like religion, caste, language or culture [e.g., the Rashtriya



Swayamsevak Sangh (RSS), the Jammal-I-Islami, the Nadar Caste Association, the Scheduled Caste Federation etc.,] The RSS is one of the most powerful pressure groups of all, with a membership of over one million.

[3] Associational pressure groups springing from the modern centres of society like industry, commerce and business; trade unions of workers and peasant organisations; journalism and legal profession, [e.g. the *Federation of Indian Chamber of Commerce and Industry [FICCI]*; the *Indian National Trade Union Congress [INTUC]*; the *Bar Associations of the Supreme Court and the High Courts* etc.]

[3] Institutional pressure groups catering to service organisations like civil service, police and defence services, educational and scientific personnel [e.g., the *Civil Service Association*, the *Scientific Workers Association*, the *All India Federation of University and College Teachers Association [AIFUCTA]* etc.].

[4] Ad-hoc pressure groups created for specific transitory purposes like settlement of river water, dispute, boundary adjustment problems between States, welfare of women [e.g., the *Narmada Bachao Committee*; the *Janwadi Mahila Samiti* etc.]

**Nature and working of two major pressure groups in Indian democratic political system :** The pressure groups have emerged powerfully in India after independence, though they existed here since long. Of these, two powerful pressure groups currently working in Indian political system are [a] Business Pressure Groups and [b] Trade Unions.

**Business Pressure Groups :** India, the business generally and big business particularly have powerful pressure groups. With their vast outlay of resources, availability of technical and managerial personnel and due to close links, with elite groups in Government, administration, opposition parties, newspapers and media; they have always had the most organised, powerful pressure groups at their command.

India's powerful business, pressure groups include a vast number of commercial, industrial and managerial bodies; their peak organisations however, being the Federation of Indian Chamber of Commerce and Industry [FICCI] and the Associated

Chambers of Commerce and Industry [AssoCham]. Unlike the business associations in most countries of the world, the major apex business organisations in India combine both industrial and trade interests within a single organisation. The FICCI was established in 1927. Right from its inception, its major aim has been the protection and promotion of indigenous trade and industry and elimination of foreign commercial interests in India. In the face of the growing competition from the more powerful foreign business interests in the domestic market, even now the FICCI is more protectionist in its attitude.

The FICCI, representing more than one lakh firms employing over five million workers, ranks first in size, power, influence and style of operation. It is an organisation that can influence official decisions and shape economic policies. Its statistics command credibility with the Government and other agencies. It has been remarked that the FICCI is a full-fledged pressure group along the western lines. It is an impressive organisation, both in terms of the number of affiliated business firms and the efficiency of operation. Further, the politics of the Federation of Indian Chambers of Commerce is dominated by big business houses [the Tatas, the Birlas, the Goenkas, the Dalmias, etc.] which provide leadership and bulk of funds of this apex organisation [FICCI]. Though they may employ a number of professional managers, they retain the final decision-making powers in their own hands. Since the holders of top positions in the FICCI can have an easy access even to the Prime Minister, his cabinet colleagues and the upper echelons of the bureaucracy to seek favour for their personal business, there is a fierce competition among the business houses for the prize posts.

Another big business pressure group is the Associated Chambers of Commerce and Industry [AssoCham]. It was originally set up as a body of British industrial and commercial interests in India under the patronage of the colonial power. Upto 1986, the AssoCham had a limited representation comprising mainly of large companies mostly with multinational connections. With the recent merger with it of Indian Merchants Chamber and joining of a sizeable number of FICCI members, the composition and

character of the AssoCham have undergone a radical change. It has become more broad-based and more effective as an apex institution. This development has also raised its status. Financially, the AssoCham and the FICCI are more or less on equal footing. However, the AssoCham is likely to play a more constructive role in the country's economic development. Again, the AssoCham through its constituent chambers represented about 2500 large public companies staffed by professional managers and employing about two million workers. Its establishment has now considerably enlarged with the merger of Indian Merchants Chamber, it may be pointed out that while the style of the Associated Chambers of Commerce is one of quiet diplomacy, which focuses attention on top bureaucrats and the ministers, the Federation of Indian Chamber of Commerce and Industry is at times publicly critical of the Government and functions at all levels of access, including financing political parties. Again, the AssoCham tends to focus on specific issues, whereas the FICCI takes a stand on almost all issues.

In short, the big business houses or pressure groups have the capacity to influence the public policy through donations to various public funds, gifts to political parties and distribution of remunerative jobs in industrial and educational institutions. Yet business group has not been able to influence substantially the shape and direction of the public policy. However, because of the social structure of India, the management and business associations appear to have much more influence than labour Unions in the shaping of national economic policies.

**Trade Unions :** In India, the Trade Union is an important type of modern pressure group of the working classes and employees. With the process of industrialisation that began in the late nineteenth century in a small way, but gained momentum in the twentieth century and particularly after independence, the number and range of working classes have grown. After the First World War, the Trade Union Movement in India was born with the growth of national and democratic consciousness and its radicalisation.

According to the Report of the Union Labour Ministry there

are about 36,000 trade unions in our country. Of these, 6,540 belong to the Central Trade Unions. Only 2% of the country's working hands [which are more than 30 crore] are members of the Central bodies. Though there are in all nine Central Trade Unions, only six of them are politically significant. They are—the All India Trade Union Congress [CPI], the Indian National Trade Union Congress [Congress Party], the Hind Mazdoor Sabha [Socialists], the Centre of Indian Trade Union [CPIM], the Bharatiya Mazdoor Sangh [BJP] and the United Trade Union Congress [ultra-leftist Marxist Communists]. There are also numerous federations of unions, not affiliated to any Central body. Such federations are :—The All India Bank Employees Association, the National Federation of Railwaymen, Post and Telegraph Workers etc. The industrial workers in textile and hosiery, ports and docks are comparatively better organised and more powerful.

The Trade Union Movement in India is autonomous but not independent. Each Trade Union has strong and clear party and ideological links. On problems of workers and employee's demands and interests they do influence their respective parties, but on larger political issues and tactics they are guided by their parties. For instance, the Congress affiliated INTUC tends to follow an anti-strike policy and support the Congress Governments [Centre and States] on major issues, including the need for industrial peace and general political stability, which they think is conducive to economic development and welfare of working class. The CITU of the CPI[M] on the otherhand, often with the help of HMS, resorts to strikes to paralyse the bourgeois anti-working class policies of the Government, in whose disstabilisation, they see a change beneficial to the working class. The AITUC, close to the GPI, follows the party line altering between support or opposition to the Government depending on the political situation. The trade union policies, depending on their party affiliation, vary from militancy to conditional support, to moderation and accommodation. Certain critics see in the policy of the Congress Government towards INTUC, a drift towards self-controlled trade unionism. The opposition controlled trade

unions [AITUC, CITU] are also politically inclined and more often than not act as the agents of their parties.

The trade union movement in India has contributed to the sharpening of national awareness, class consciousness and a sense of international friendship and solidarity with struggling peoples everywhere, for a more just, equitable and better world. The trade unions have systematically worked for better conditions of living and working and also worked for adoption of positive labour laws in the Parliament and the State Legislatures. They do not have the money power of the capital but they have the will and solidarity to work for the upliftment of the downtrodden. The trade unions in India have been able to influence the Government and the management to provide for [1] improvement in living conditions of the workers ; [2] adoption of social welfare benefits like employees insurance, medical and housing facilities ; [3] periodic revision of wage structure to compensate for price increase ; [4] bonus in public sector units and in private enterprises and [5] the recognition of the right to strike to press for their demands. [However, very recently, the Supreme Court has ruled that the working people have no legal, moral or equitable right to strike].

On the negative side, trade unionism in India had sometimes resorted to what Lenin called economism, that is, focusing on limited economic gains of the workers at the expense of the larger developmental goals. In a country struggling to build a self-reliant infrastructure of industrialisation in order to overcome the dependence of foreign capital; strikes, gheraos and bandhs resorted to by the trade union leaders weakens, delays and distorts the national development process. In the name of class struggle the trade unions sometimes overlook the vital national goals that cut across class divisions. Populist radicalism only leads to agitation and meaningless conflict. It, in fact, delays the socio-economic transformation, which only can improve the conditions of the working people's lives. Hence, there is an obvious need for creative and constructive trade union activity for the welfare of the working class and the prosperity of the nation.

Thus, the pressure groups in India [both business interests and

trade unions] provide a necessary link in the functioning of democracy and in extending the concept of representative responsible Government.

**Q. 82. Discuss the role of the Pressure Groups in the Indian political system.**

**Ans.** In India's liberal democratic political system, there are several organised groups possessing both formal structure and real common interests. They are called pressure groups or the invisible Government. That is, the pressure groups [business interests and trade unions] do not themselves want to form the Government, but they try to influence the decisions of the Government. The pressure groups are part of the wider political process and also conditioned by the political cultures, attitudes and beliefs of the people.

The pressure groups in India have not as yet gained legitimacy in the eyes of the political leadership. They are regarded as extra-Constitutional and extra-system, rather than as genuine partners in policy-making. There are definite reasons for that. The Indian Government is committed to maintaining and strengthening the democratic order. It is also committed to a programme of economic development and national unity. Thus the pressure groups are no doubt essential to the successful functioning of our democracy.

In this connection, we are to note that the political parties have certain identities whose strength can be measured in terms of votes and legislation. The pressure group (e.g., the FICCI) candidates do not run for public office. Nor do legislators identify themselves as representing any particular interest. This lack of identity makes it difficult to measure the amount and types of pressure the interest groups apply. Besides, India is made up of 28 States and 6 Union Territories. In no two States are the same pressure groups equally influential. For example, the Trade Unions in Tamil Nadu are not effective and influential as their counterparts in West Bengal. Business interests are comparatively more powerful in Maharashtra and Gujrat; or the farm lobby in Haryana and Punjab. Again, there is no denying the fact that the influence of a pressure group depends on its size, cohesion,



leadership and financial resources. The rich, well-organised, and politically significant pressure groups can acquire an excessive degree of influence. In short, the pressure groups cause the legislators, the ministers, the bureaucrats or the judges to act in a particular way by offering arguments or employing other techniques as the case may be to influence the Government policies and mould public opinion. The main tasks of the pressure groups in the functioning of our democracy are analysed below :

(1) In our multi-party systems, the pressure groups work more effectively among the legislators. This has been the experience in the Indian Parliament and in State Legislatures as well. The pressure groups influence the process of law-making. In India, the various legislative committees (in Parliament and State Assemblies), while considering the legislative measures, take note of the reactions of those people who are likely to be affected by them. For example, the Minister for Labour Welfare in India has convened a meeting of the leaders of the main trade unions for assessing their views on Industrial Disputes Act. Again, the pressure groups use various methods in order to influence the M.P.s and the M.L.A.s, for example, the pressure groups depend upon lobbying to affect governmental policies and press the legislators to vote in favour of a bill or against it. Lastly, the members of the business interests groups, (e.g. the FICCI) contact with the legislators of the ruling and opposition parties and assure electoral assistance to gain their support. Sometimes, the trade unions hold rallies and demonstration in support of their demands.

(2) In India, the executive (Union or State Ministry) is also a target for interest group's pressure and persuasion. That is, the various pressure groups seek to influence the members of the political executive. In our parliamentary system of democratic Government, the real power lies with the ministers. Hence the representatives of the big pressure groups (business interests and trade unions) try to establish contacts through correspondence or meet them personally. As a matter of fact, there being joint ministerial responsibility, the approval of the entire cabinet for every important policy matter is essential. That is why an individual

minister can be of some help only to a limited extent. A few years ago, a U.K.-based Indian businessman Swaraj Paul purchased in large numbers the shares of two Indian companies, viz., the Escorts and the Delhi Cloth Mills. The big industrial houses of India took it as a danger signal. They pressurised the Union Government to make a public announcement about the measures intended to bringing stability in the money market.

(3) The pressure groups tend to concentrate their attention on the bureaucrat concerned with their own area of interest. Business groups deal with the Department of Commerce and Industry ; farm groups with Department of Agriculture, and workers with the Department of Labour. Since bureaucracy has been playing an increasingly important role in our parliamentary democracy, the pressure groups employ about the same tactics as they do with the legislators, including correspondence and personal contact with the officials, the supply of research and factual materials, entertaining etc.

(4) Since the judiciary in India is independent, the effectiveness of the pressure groups is limited in the context of judicial activity. But there are various laws relating to taxation, wage policy and service conditions of the workers that need to be interpreted by the courts. The business chambers, the trade unions or the caste associations many a time do need a sympathetic interpretation of the said laws relating to taxation. Sometimes the big industrial houses and other interest groups seek to influence the appointment of judges or can undertake public campaigns to influence judicial decisions.

(5) In India, the pressure groups have effective contributions to the activities of the political parties. The big industrial houses, the trade unions and the farmers, interest groups try to influence the policies of both all-India and regional political parties. They contribute to the election-funds of the parties or the candidates at the time of elections. For instance, the all-India political parties—the Indian National Congress and the Bharatiya Janata Party—get support of the FICCI and AssoCham. The leftists in West Bengal, Tripura and Kerala have been getting effective support of the trade unions. Other political parties (B.S.P.) also get

contributions from the companies, which release advertisements for the party organs and souvenirs. And lastly, various regional political parties like TDP, DMK, AIADMK and Akali Dal have gained their political strength through powerful rich peasants support-structure and vote-banks (e.g., the Bharatiya Kisan Union).

(6) In the Indian political system, the pressure groups also play a vital role to mobilise public opinion. Due to the growth of the mass media (radio, press and propaganda, television etc.), it is now possible for the pressure groups to take their demands to the people. It is very essential for the bank unions, post and telegraph unions and water and electricity unions etc. to apprise people of the genuineness of their demands, so that public opinion may not go against them when they have no option other than to have recourse to strike. The major pressure groups have their own papers and journals (Hindustan Times, Commerce, Capital, Eastern Economist etc.) which present their cases strongly. Sometimes these pressure groups organise conferences and assemblies to influence public opinion and Government.

(7) The strategic importance of a pressure group in the social and economic life of our nation also goes a long way in determining its influence or pressure. It is, therefore, that doctors, engineers and bank employees have greater influence than defenceless teachers. Yet for a group to optimise its position, it is essential for it to perceive and exploit its strategic position, compelling the decision-makers to concede its demands.

There are critics who believe that the pressure groups like business (FICCI and AssoCham) and labour (INTUC, AITUC and CITU) have been so dependent upon Government benevolence and so vulnerable to its administrative actions that they have generally been hesitant to pressure too extensively or to question its policies. Under these circumstances, the pressure groups in India have come to play at best a circumspect negative role in the decision-making process. Again, the pressure groups are no doubt essential to the successful functioning of our democratic political system. But they do not operate with due considerations for the larger interests of the society. They can

contribute to the destruction of democracy. For example, strikes by trade unions threaten production; refusal of peasants to pay taxes affects Government's revenue, riots by students and other unruly sections endanger the public order without which the country's development is not possible. All these actions of the pressure groups are, in no way, in the interest of the nation.

Therefore, the policy-makers in India should encourage only those pressure groups which fulfil certain sets of conditions compatible with a society concerned with economic development, national unity and maintenance of democratic institutions and practices. It should also be their endeavour to harmonise various pressure groups on the basis of mutual trust and security. They should refrain from following a policy which perpetuates communal divisions and interests.

14

## LOCAL SELF-GOVERNMENT IN WEST BENGAL

**Q. 83.** Describe the composition and functions of the Gram Panchayat, in West Bengal.

**Ans.** The principle of democratic representation is an essential feature of self-government. We, the people of West Bengal, have accepted the democratic decentralisation through the Panchayat Raj system in order to build up a democratic structure from the grass-roots. Mahatma Gandhi truly recognised that independence would have no significance without rural upliftment. The Constitution of India has laid down in Article 40 that the States shall take steps to organise Village Panchayats.

In accordance with the direction of the National Development Council, the Government of West Bengal has enacted the Panchayat Acts from time to time (1956, 1963, 1972, 1977 and 1992) with a view to establishing different Panchayat units in the village, block and district levels; and investing them with such powers and authority as may be necessary to enable them to function as Units of rural self-government. However, our State legislature has amended the West Bengal Panchayat Act (1992) in 1993 to cope with the provision of the 73rd Constitution Amendment Act passed in the Parliament in 1992. Its object is to make better provision for rural administration, reconstruction and development as self-sufficient autonomous Village Units. In West Bengal, there is a three-tier structure of rural self-governing bodies from the Village to the district viz., (a) Gram Panchayat, (b) Panchayat Samiti and (c) Zilla Parishad. And these bodies are organically linked up.

**Composition :** In West Bengal, the Gram Panchayat is the lowest tier of the Panchayat Raj system. Its general body is called the Gram Sabha. The Gram Sabha consists of persons registered in electoral rolls (of Legislative Assembly of West Bengal) relating to any mouza or part of a mouza comprising ten (10) to twelve (12) thousand of people.

The Gram Panchayat is the executive Committee of the Gram Sabha. Under the Panchayat Act, all elections of the members to the Gram Panchayat are conducted by the State Election commission appointed by the Governor of West Bengal. The total number of members of a Gram Panchayat varies from five (5) to twenty five (25). They are directly elected by the Voters of the area. Again, the Panchayat Act provides for the reservation of one-third ( $1/3$ ) of the total number of seats for Women. Lastly, seats are also reserved for the Scheduled caste and Scheduled tribe in proportion to the number of population of the Gram Sabha area concerned.

The Gram Panchayat has a Pradhan and a Upa-Pradhan to be chaired at its meeting. They are elected by the sitting members from amongst them. Besides, there is a Secretary in every Gram Panchayat appointed by the Government of West Bengal.

The members of the Gram Panchayat including its Pradhan and Upa-Pradhan continue in office for five (5) years.

**Functions :** The main functions and duties of the Gram Panchayat are as follows :

- (1) Land improvement including development of waste lands.
- (2) Agriculture and Grow-more-food campaign.
- (3) Minor irrigation.
- (4) Construction and maintenance of Village roads.
- (5) Conservancy and sanitation.
- (6) Lighting of streets.
- (7) Supply of drinking water.
- (8) Burning and burial grounds.
- (9) Maintenance of parks, public gardens and playgrounds.
- (10) Prevention of infectious diseases.
- (11) Mobilisation of reliefs in natural calamities.
- (12) Promotion of dairy farming and development of fisheries.
- (13) Promotion of cottage and Village Industries.
- (14) Agriculture and industrial exhibition.
- (15) Rural electrification.
- (16) Planting of trees.
- (17) Primary, secondary and technical education.
- (18) Control of public buildings.



- (19) Registration of births and deaths.
- (20) Implementation of women and child welfare programmes.
- (21) Social welfare of the Scheduled castes, tribes and also the handicapped.
- (22) Procurement and distribution of seeds and financial help to the cultivators.
- (23) Public distribution system.
- (24) Preparation of annual plans and budget of the area, etc. etc.

**Revenue and Expenditure :** The sources of revenue of the Gram Panchayat are : (a) Contribution and grants made by the Central and State Governments, (b) Contribution and grants made by the Panchayat Samiti and Zilla Parishad, (c) Loans granted by the Central or State Government, (d) All receipts on account of taxes, rates, fees levied by it, (e) All sums received as gift or contribution, (f) Share of land revenue and octroi duty.

Every Gram Panchayat spends such sum annually as to meet the cost of its own administration including the payment of salaries and allowances to its employees as well as the purchase of furniture and stationery articles and also to meet the charges of electricity, posts and telegraphs etc.

The formation and functioning of the Gram Panchayat under our Panchayat Act have aroused the initiative of the people of West Bengal through their participation in popular bodies at the Village level. It has also fostered a political education among the rural people. This is the reason that the Government of West Bengal has already established more than 3,000 Gram Panchayats in the Village areas of the State.

**Q 84.** Describe the composition and functions of the Panchayat Samiti and Zilla Parishad under the West Bengal Panchayat Act of 1993.

**Ans.** The West Bengal Panchayat Act of 1993 provides for a three-tier (Gram Panchayat, Panchayat Samiti and Zilla Parishad) Panchayat Raj system in the Village areas of our State. Its object is to make better provision for rural administration, reconstruction and development as self-sufficient autonomous units.

### Panchayat Samiti—Composition and Functions :

In West Bengal, the Panchayat Samiti is the intermediate tier created to serve as a link between the Gram Panchayat and the Zilla Parishad. It functions at the block level because the Panchayat Act has laid down that there must be a Panchayat Samiti in each development block. There are 328 Panchayat Samitis in different block areas of West Bengal.

**Composition :** According to the provisions of the West Bengal Panchayat Act (1993), the elections to the members of the Panchayat Samiti are conducted by the State Election Commission. The Panchayat Samiti consists of the following types of members :

- (a) Pradhans of the Gram panchayats within the Block as ex-officio ;
- (b) Three (3) members to be directly elected from each Gram Panchayat area within the block ;
- (c) Members of the Lok Sabha and the State Legislative Assembly of the State elected thereof from the constituency comprising the block ;
- (d) One-third of the total seats to be reserved for women ;
- (e) Seats are also reserved for the Scheduled Castes and Scheduled Tribes in proportion to the number of the population of the block area.

The members of the Panchayat Samiti other than the ex-officio members hold office for a period of 5 years. Every Panchayat Samiti elects, at its first meeting, one of its members to be Chairman and another member to be Vice-Chairman. Their term of office is 5 years. Lastly, the Block Development Officer (B.D.O.) is the ex-officio Executive Officer of the Panchayat Samiti. He exercises general control over officers and employees of the Panchayat Samiti.

**Functions :** A Panchayat Samiti exercises its functions through several standing committees, namely, (a) Finance, (b) Public health, (c) Agriculture and Irrigation, (d) Education, and (e) Cottage Industries.

A Panchayat Samiti has the power to : (a) Undertake schemes to adopt measures, including the giving of financial assistance

relating to development of agriculture, livestock, cottage industries, rural credit, co-operative movement, water supply, irrigation, public health, sanitation, primary and secondary education, etc.

(b) Undertake or execute of any scheme, management of any institution in public interest ;

(c) manage or maintain any work of public utility ;

(d) make grants (financial) to the Zilla Parishad or the Gram Panchayats ;

(e) contribute sums (money) towards the cost of water supply,

(f) adopt measures for the relief of distress ;

(g) co-ordinate and integrate the development plans ;

(h) examine and sanction the budget estimates of Gram Panchayats falling within its area ;

(i) undertake or execute any scheme if it extends to more than one Gram.

(j) prepare its own budget and submits it to the Zilla Parishad for approval ;

(k) acquire, hold and dispose of property and enter into contracts,

(l) control flood and droughts ;

(m) implement poverty alleviation programmes ;

(n) promote rural artisan and vocational training ;

(o) promote rural electrification, co-operation and family welfare programmes etc.

The sources of revenue of the panchayat Samiti are :

(1) Contributions and grants made by the Central or the State Government ; (2) contributions and grants made by the Zilla Parishad; (3) loans granted by the Central or State Government; (4) all receipts on account of tolls, rates and fees levied by it ; (5) all incomes from any Trust made in favour of the Panchayat Samiti ; (6) such fines penalties imposed and realised under the provisions of the Panchayat Act. Besides, a Panchayat Samiti may levy tolls on person and fery.

**Zilla Parishad—Composition and Functions :** The Zilla Parishad is the highest tier of the Panchayat Raj system as introduced by the West Bengal Panchayat Act of 1992 (as amended in 1993).

There is a Zilla Parishad in each district excluding such portions as are included in a Municipality or a Municipal Corporation. There are sixteen (16) Zilla Parishad, in the plain districts of the State of West Bengal.

Under the West Bengal Panchayat Amendment Act of 1993 (enacted in accordance with the provisions of the Constitution [Seventy-third] Amendment Act, 1992), the superintendence, direction and control of the preparation of the electoral rolls for, and conduct of, all elections to the Zilla Parishad are vested in a State Election Commission constituted by the Governor of West Bengal.

The Zilla Parishad is composed of the following categories of members :

[a] the Chairman of the Panchayat Samities within the district ; [b] two persons, one from each of two such constituencies comprised in the block ; [c] the members of the Lok Sabha and the Legislative Assembly of the State in the district concerned not being Ministers ; [d] the members of the Rajya Sabha not being Ministers having a place of residence in the district ; [e] One-third of the total seats is reserved for women ; [f] seats are also reserved for Scheduled Caste and Scheduled Tribes in proportion to the number of population of the district concerned. Besides, the District Magistrate is the Chief Executive officer of the Zilla Parishad.

According to the Panchayat Act, the Zilla Parishad is constituted for a period of five years. The Zilla Parishad has a Chairman and Vice-Chairman to be presided at its meetings. They are elected by the directly elected members from amongst them. All the members have the right to vote whether or not chosen by direct election in the meetings of the Zilla Parishad.

The Zilla Parishad meets once in a month. It works through Standing Committees—[i] Finance, [ii] Town Planning, [iii] Public Health, [iv] Education and [v] Agriculture and Irrigation etc.

**Functions :** The West Bengal Panchayat Act assigns to the Zilla Parishad some major functions noted below :

[1] Development of agriculture, industries, co-operative movement, rural credit, public health, sanitation, technical and

vocational education, social welfare ; [2] undertake schemes or adopt measures for any work of public utility ; [3] Management of any institution ; [4] Make grants in-aid to any educational institution public, library etc. ; [5] Maintenance of godowns and cold storages ; [6] Watershed development programme ; [7] Rural Parks and gardens ; [8] Marketing-Control of agricultural products ; [9] Breeding farms for cows and pigs ; [10] Fodder development programmes ; [11] Popularising low-cost housing ; [12] Implementation of poverty alleviation programmes ; [13] Control of fire outbreaks ; [14] Social welfare, including the welfare of the handicapped and mentally retarded ; [15] Maintenance of Community assets ; [16] Non-conventional energy sources etc.

The sources of revenue of the Zilla Parishad are : [a] rent from land or other properties ; [b] sums received as gift or contribution ; [c] grants and loans made by the State Government ; [d] tax on profession or trade ; [e] license fee from cinema halls, saw mills, timber depots ; [f] water rate and lighting rate ; [h] sums received from public ferries and fisheries etc.

The Zilla Parishad Fund is applicable to the payment of interest upon loans ; allowances to the Chairman and the Vice-Chairman; salaries of its officers and employees, purchase of furniture and stationery articles and all incidental charges incurred by the Zilla Parishad.

**Q. 85.** Explain the composition and functions of the Municipalities in West Bengal.

**Ans.** Local self-governing institutions occupy an important position in the democratic set-up of West Bengal. They arouse the social and political consciousness of the people of the local government areas. In our State, the local self-governing institutions are of two types—[a] urban and [b] rural. Municipalities and Municipal Corporations fall under the category of urban self-government.

Municipalities exist in the small towns of West Bengal. They were constituted and regulated under the Bengal Municipal Act of 1932 [also amended several times after independence]. But this Act was defective for obvious reasons. Hence, in accordance with the provisions of the Constitution [Seventy-fourth]

Amendment Act of 1992, the State Legislature of West Bengal has enacted the West Bengal Municipality Act [1993] by replacing the old Act. Its object is to make better provision for municipal administration, reconstruction and development as self-sufficient autonomous urban units.

Under the West Bengal Municipality Act [1994], the superintendence, direction and control of the preparation of the electoral rolls for, and conduct of, all elections to the Municipalities are vested in a State Election Commission constituted by the Governor of West Bengal. The size of a municipality varies from town to town depending on the population of the area. The executive and decision-making committee of a municipality is called the municipal Board. The members of the board are known as the Councillors. Broadly speaking a municipal board consists of not more than 30 Councillors and not less than 9 Councillors. A municipal area is divided into several wards and one member is elected from it of the total membership, one third seats are reserved for women, seats are also reserved for the Scheduled Caste and Scheduled Tribes in proportion to the number of population of the area. The Councillors are elected by the electors [18 years of age and above] of the ward on the basis of universal adult franchise. At present there are 120 municipalities in the small towns of our State.

At its first meeting, the Councillor elect one Chairman and one Vice-Chairman from amongst them to be presided at its sittings. The Councillors including the Chairman and the Vice-Chairman hold office for 5 years. But a municipal board may be superseded by the Government of West Bengal on ground of incapacity of its Councillors or on any reasonable ground.

A novel feature of the organisation of the municipal board [under the present Act] is the Chairman-in-Council. The Chairman, the Vice-Chairman and three elected Councillors [nominated by the Chairman] constitute the Chairman-in-Council. This council is responsible to the Municipal Board of Councillors for all works and activities.

**Functions :** The Board of Councillors of a municipality



formulates the policies and programmes of administration. These are carried out by the permanent officials of the municipality. The functions and responsibilities of the municipal board are very wide. They include—

[a] regulation of land-use and construction of buildings ; [b] planning for economic and social development ; [c] roads and bridges ; [d] water supply for domestic, industrial and commercial purposes ; [e] public health, sanitation and conservancy ; [f] fire services ; [g] urban forestry and protection of the environment ; [h] safeguarding the interests of the handicapped and mentally retarded ; [i] slum improvement, [j] urban poverty alleviation ; [k] urban amenities such as parks, gardens and playgrounds ; [l] promotion of cultural and aesthetic aspect ; [m] burial grounds and cremations ; [n] cattle ponds ; [o] regulation of slaughter houses and tanneries etc.

A Municipality requires a large sum of money to perform its business properly. It raises revenue from various sources :

[i] tax on house and land ; [ii] property taxes including water and conservancy taxes; [iii] tax on lighting; [iv] tax on vehicles, boats and animals ; [v] octroi duty, [vi] tax on trades and professions ; [vii] tolls on ferries and bridges ; [viii] tax on domestic cattle ; [ix] rent from municipal markets. Besides, it gets financial assistance annually from the Government of West Bengal.

The fund the municipality is applicable to the payment of interest upon loans; allowances to the Chairman, the Vice-Chairman and the Councillors; salaries of its officers and employees; purchase of furniture and stationery articles and all incidental charges incurred by the municipality.

**Q. 86.** Describe the composition and functions of the Calcutta [Kolkata] Municipal Corporation.

**Ans.** Local self-governing institutions play an important, role in the democratic Governments of the constituent States of the Indian Union. They arouse the social and political consciousness of the people of the locality of the urban self-governments. The corporation exercises more powers and enjoys greater autonomy than a municipality.

**Composition :** Like Mumbai and Chennai, Kolkata also has municipal corporation to look after the development of the city. The corporation of Kolkata has been constituted and regulated by the Kolkata Municipal Corporation Act of 1980. However this Act has been amended in its structure and functions in accordance with the provisions of the Constitution [Seventy-fourth] Amendment Act, 1992.

At present, the superintendence, direction and control of the preparation of the electoral rolls for, and conduct of all elections to the Council of the Kolkata Municipal Corporation are vested in a State Election Commission constituted by the Governor of West Bengal.

The Council of the Corporation of Kolkata consists of 143 members [Councillors]. The city of Kolkata and its added areas have been divided into 141 wards. One Councillor is elected from each ward. Therefore, the number of elected Councillors of the Corporation is 141. Of this, one third seats are reserved for women. Seats are also reserved for the Scheduled Castes and Scheduled Tribes in proportion to the total population of the ward. The Councillors are elected directly by the citizens of 18 years of age or above on the basis of universal adult suffrage. Again, the Chairman of the Kolkata Improvement Trust and the Chief Executive Officer of the Kolkata Metropolitan Development Authority [KMDA] are the ex-officio members of the Council of the Kolkata Municipal Corporation. The term of office of the Councillors is five [5] years.

The Councillors elect the Chairman of the Corporation from amongst them. He is elected for five [5] years. The Chairman presides over the meetings of the Council and maintains decency and decorum. He interprets rules and controls debates.

A novel feature of the present Act is the organisation of the Mayor-in-Council. The Councillors elect the Mayor and the Deputy Mayor from amongst them. The Mayoral Council consists of the Mayor, the Deputy Mayor and ten other members to be nominated by the Mayor from among the elected Councillors. The tenure of Mayor-in-Council is five [5] years. The office of the

Mayor carries high dignity and prestige. He is the first citizen of Kolkata. The Mayoral Council is popularly known as the Council of Ministers of the City Government of Kolkata. The Mayor-in-Council is responsible to the Corporation for its works and activities.

The Kolkata Corporation has a Chief Commissioner. He is appointed by the Government of West Bengal in consultation with the Mayoral Council. He supervises the day to day affairs of the Corporation on behalf of the State Government.

**Functions :** The Kolkata Municipal Corporation works through several standing committees, viz., [a] Finance, [b] Education, [c] Public health, [d] Water supply, [e] Town planning. Besides, the Corporation has two other committees known as the Estimates Committee and Accounts Committee.

The council of the Kolkata Municipal Corporation formulates the basic principles and takes decisions on all important matters. And they are carried out by the permanent officials of the Corporation. The functions and responsibilities include—[a] construction of roads and bridges ; [b] supply of filtered and unfiltered water ; [c] arrangements for lighting streets ; [d] sanitary measures to keep roads and streets clean ; [e] establishment and maintenance of schools for primary education ; [f] registration of births and deaths ; [g] regulation of slaughter houses and tanneries ; [h] public amenities including parking lots, bus stops and public conveniences ; [i] burials and burial grounds, cremation grounds and electric crematoriums ; [j] urban poverty alleviation ; [k] provision of urban amenities and facilities such as parks, gardens, playgrounds ; [l] planning for economic and social development ; [m] fire services, [n] urban forestry and promotion of ecological aspects ; [o] slum improvement and upgradation, [p] safeguarding the interests of the weaker sections of the society, including the handicapped and mentally retarded ; [q] cattle ponds and prevention of cruelty to animals ; [r] examine and approve plans for construction of buildings etc.

**Revenue and Expenditure :** The main sources of the revenue of the Kolkata Municipal Corporation Kolkata are as follows :

[a] taxes on house and property, [b] water and lighting rates,

[e] taxes on trades and professions, [d] taxes on vehicles and animals, [e] Octroi duty, [f] a part of the motor vehicle tax, [g] rent from municipal property, land and market etc. Besides, the Kolkata Corporation receives annual financial aid from the Government of West Bengal. It can also raise revenue with the approval of the State Government.

A large portion of revenue of the Kolkata Municipal Corporation is spent for the payment of salaries and allowances to its employees. The remaining amount is spent for public utility services like education, medical relief, public amenities, public works including roads.

15

## MAJOR ISSUES IN INDIAN POLITICS

Q. 87. Discuss the role of caste in contemporary Indian Politics.

Or,

"Caste uses Politics and Politics uses Caste."—Comment.

Or,

Examine the effects of Casteism on India's political system.

Ans. The most persistent form of social organisation in India is the Caste system. It is "caste" that distinguishes Indian Society from its counterparts elsewhere. A caste has been defined as a hereditary, endogamous, usually localised group, having a traditional association with an occupation and a particular position in the local hierarchy of castes.

The base of India's social structure is the caste (varnas) and sub-caste (jati). The caste system is another term for the Hindu Social base comprising about 80 percent of the Indian population. At present, there exists in Indian society more than 3500 castes and sub-castes. Dr. Ambedkar has said that the caste system is not merely a division of labour, it is a division of labourers. For example, in some regions of our country, the Brahmins have made the Shudras to their subordinates through forced labour, practice of untouchability and discrimination in service (in the name of Sanskritisation). The basic features of Indian casteism are : hierarchy, endogamy, occupational associations and distinction in custom, caste organisations and caste mobility.

In the Free India, casteism has been a significant and decisive factor in our socio-political fields. Modernisation has sharpened inherited social identities. After Independence, three important changes have taken place in our social sects—extension of adult franchise, legal outlawing of untouchability, great emphasis on equal protection of laws. And these changes have had substantial effects on rural casteism.

Thus, caste is a significant element in Indian Society under the impact of modern politics. It has taken new dimensions. And in the past five decades, the combination of the caste and the democratic secular process has changed the nature of the political culture in India, importing to its existing plurality a political connotation. According to *Rajni Kothari*, caste has been politicised but in the process it has provided to Indian politics processes and symbols of political articulation. So, it is not that politics uses caste, at the same time caste also used politics. *Prof. Rudolph* opines—within the new context of political democracy, caste remains a central element of India's society even while adapting itself to the values and methods of democratic politics. Indeed, it has become one of the means by which the Indian mass has been attached to the process of democratic politics. To *Prof. Morris Jones*—in India, the top leaders may proclaim the goal of casteless society but the newly franchised rural masses know only the language of traditional politics which so largely turns about caste. Again, *Jai Prakash Narayan* once said that caste is the most important political party in India. And appeals for political support on the basis of caste have definitely increased over the years.

Since Independence, caste has been playing an increasingly important role in all political activities—elections, political appointments, party formations etc. While the four-fold division of *Chaturvarnas* (Brahmin, Kshatriya, Vajshya and Shudra) is too broad and theoretical, the kingpin of the caste system is really the regional specific Jati. There is a basic cohesion around jatis and not so much around varnas. When we refer to the dominant caste in a village, region or State, we really talk about jatis. In many regions, several so-called backward castes and middle castes occupy the positions of dominance in society and polity. In some other regions, the upper castes are also dominant castes, sometimes with one or two backward castes. The caste groupings get a chance to assert their identity and to strive for political gain. Candidates for elective offices are selected on caste considerations and voters are persuaded to vote on caste lines. For example the electoral politics in Andhra Pradesh cannot be understood without



an indepth study of the triangular fight among the Reddies, Kammas and Valammas. In Bihar, the Thakurs, Brahmins, Yadavs and the backward castes are involved in struggle for power. In democratic political system of India, these jatis are using political opportunities to retain their traditional hold and power.

India's political structure and processes are democratic, but its social base, particularly in the vast rural areas, is rather tribal and casteist. This predemocratic sociological base affects the working of our democratic politics. Democratic facilities—like fundamental rights relating to free speech, expression and association, participation in the electoral system, formation of parties, free media and press and even legislative forum etc.—are misused for maintaining casteist identity. This is possible because while the form of Indian politics is secular, its style is essentially casteist. Some caste leaders play a different game—they want modernisation of their own tradition, yet they would like to keep their separate caste identity as well. This helps them and their caste to become a modernised interest group.

To summarise, the negative impact of casteism on India's political system is—

(a) that it violates the basis principles enshrined in the Constitution for promoting a new democratic polity, namely, the principles of justice, equality and above all fraternity assuring the unity and integrity of the nation.

(b) that it has politicised the castes as a divisive factor, counterposing one caste or a groups of castes against the rest.

(c) that it has vitiated the atmosphere of elections, by projecting the pre-democratic ascriptive identities, promoting narrow loyalties, thus weakening the modernisation of polity.

(d) that by building caste associations, pressure groups and lobbies, it seeks to retain outdated and outmoded caste cohesion in national and State politics, which is an impediment to building up a secular society.

(e) that it adversely affects the grass roots Panchayati Raj System, by seeking to retain the traditional mould of dominant and dominated castes and thus frustrate the emergence of the

new democratic culture of free and equal citizenship, irrespective of caste, creed or birth.

(f) that it creates tension, suspicion, fear and an atmosphere of violence, by building militancy on caste lines.

(g) that in party politics and in ministry formations, its (casteism) role contributes to avoidable bickerings, narrow bargainings and jockeying for power, which often leads to political instability and confusion.

(h) that the caste-based reservation is an impediment to progress and social change by making the beneficiaries to a community of incompetent and inferior people.

Therefore, casteism weakens the working and stability of our democratic secular federal system and militates against the basic principles governing our national life and providing meaning to our new identity. It is tearing apart the rich and closely knit the tapestry of Indian Unity. In recent years, there have been recurrent and increasing number of caste carnages in the country. This should stop if India is to emerge as a democratic secular polity. Following are the solutions to cure this malady :—

(i) Political parties based on casteism must be eliminated.

(ii) All the democratic and secular political parties should be determined, not to encourage casteism.

(iii) Caste titles should be removed from the names of all educational institutions being run in the name of caste.

(iv) All the papers and magazines provoking casteism should be banned.

(v) It is said that the excessive zeal for the depressed classes is a fraud on the Constitution. Hence the caste privileges by the Government (Union and State) should be restricted to a great extent.

Q. 88. What is meant by "Religion" in India ? Discuss the impact of Religion on India's political system.

Or,

Discuss the role of secularism in the politics of contemporary India.

Ans. The word "religion" signifies the philosophical tenets of a religious sect. It lays down a code of ethical rules for its

followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion and these forms and observances might extend even to matters of food and dress. Religion also implies the rituals to be followed in a religious institution. In India the Supreme Court has held that religion is not necessarily theistic; there are well-known religions in India like Buddhism and Jainism, which do not believe in the existence of God or of any intelligent First cause. A religion has its basis in a system of beliefs and doctrines which are regarded by those who profess that religion to be conducive to their spiritual well-being. A religion is not merely an opinion, doctrine or belief. It has its outward expression in acts as well. Again, "religion" is a matter of faith but belief in God is not essential to constitute religion. Doctrines of each religion constitute its essential part, but the court is competent to examine them. What constituted an integral and essential part of a religion has to be determined with reference to its doctrines, practices, tenets, historical background etc. of the given religion. For example, The "Ananda Marg" has been held to be a religious sect. But the right to perform tandava dance in public (claimed by the Ananda Margis) is not the essential core or the religious rite upon which the Ananda Marg is founded. It is not only repulsive to public taste and morality but is bound to cause fear in the mind of the people of other religions and cause public annoyance as well.

Religion in the Sovereign Democratic Republic of India is a personal affair. Neither privilege nor handicap is attached to one's own religion. The State does not take into consideration religion in giving protection, peace and security, in giving justice, in giving employment or in imposing taxes.

In the Constituent Assembly, the Founding-Fathers of our Republican Constitution laid a great stress on the brotherhood of religious communities based on their respect for and pursuit of truth. For example, Jawaharlal Nehru opined that every religion and belief has full freedom and equal honour and every person (citizen and non-citizen) has equal liberty and opportunity in religious matters. There is freedom of conscience even for those who have no religion and free play for all religious subject only

to not interfering with each other or with the basic conception of our State. It may be noted that though Hindus constitute a very large majority in India, yet Hinduism is not religion of the State. For example, religion has no relevance to matters like the abolition of untouchability or a uniform civil code throughout the Indian territory.

In the Free India, eight major religious communities coexist—the Hindus, the Muslims, the Christians, the Sikhs, the Buddhists, the Jains, the Jews and the Parsis. Some of them, however, subscribe to varied pagan beliefs as well.

Religious freedoms find an important place in the constitutional and political systems of our democratic country. They constitute the essence of social and moral bases of a person's dignity and personality. The freedom of religion as enshrined in Indian democratic constitutional practice is in perfect conformity with our traditions of religious tolerance and also completely in tune with modern civilised life. The State (Union-Regional, Local Governments) keeps out of the arena of religion and religion has been made to keep out of the arena of the State. Religion has become the sole preserve of the individual or groups of individuals and he/she or they are free to strike out his/their path in meeting and fulfilling the dictates of his conscience, subject to the conditions prescribed by the Constitution. Thus, the right to freedom of religion is a very important fundamental right guaranteed equally to all persons by our Founding Fathers. India is a multi-religion State having people of various faiths. The right to religion has, therefore special significance. The State allows the positive growth of all religions and faiths. It allows to all persons the right to freedom of conscience and the right to freely profess, practise and propagate religion. All religions have a right to establish and maintain institutions for religious and charitable purposes and also to manage their own affairs in matters of religion. Besides, the State cannot compel the individuals to pay taxes for the promotion of any particular religion. And lastly, the State does not allow religious instructions in Government-educational Institutions. The State, however, has the right to regulate or restrict any economic, political, or other secular activity associated

The Indian National Congress's popular votes in the thirteenth General parliamentary elections (1952-1999) despite being less than 50 percent in every election (1952-45% ; 1967-40% ; 1977 - 34% ; 1984-49% ; 1989-39% ; and 1999-28% 2004-145 seats) has nevertheless been more than the percentage of votes of any other party. The capacity of the Indian National Congress is attracting popular electoral support and obtaining a majority of seats in the Lok Sabha (except in 1977, 1989, 1996, 1998, 1999) at the Centre has given it the character not only of a dominant party in the multi-party situation in India's parliamentary democratic system, but has also made the Congress the one and the only All-India party in terms of its territorial spread, electoral appeal and political ramifications. All other parties are at best, as of now, trans-regional and multi-State parties or uni-State and regional parties and despite some of them claiming to be All-India in name and ambition.

The Indian National Congress has always been either in power or has been the largest opposition party in Parliament (in 1977, 1989, 1999). It has always had broader support in most States of the Indian Union than any other party. The Indian National Congress has always been a tolerant party accommodating almost every shade of opinion. For a hundred years now, the Indian National Congress has remained the main political organisation of the Indian people. Its achievements and lapses, its strength and weakness and its moments of glory and tragedies have all been an integral part of the Indian political scene.

**Q. 73. Discuss the ideology and programmes of the Bharatiya Janata Party (B.J.P.).**

**Ans.** The Bharatiya Janata Party (B.J.P.) established in December, 1980 is the new and modified version of the Bharatiya Jana Sangh that was founded in October, 1951. The B.J.P. has points of continuity with the Jana Sangh in its discipline and well-knit organisational set up and in its linkage with the traditional Hindu socio-cultural organisations—Rashtriya Swayamsevak Sangha (R.S.S.) and the Vishwa Hindu Parishad (V.H.P.). With certain variations in its political perspective and policy orientation, the B.J.P. has close affinity with the erstwhile Jana Sangh.

The Bharatiya Janata Party like its predecessor the Jana Sangh has a strong electoral support base in the Hindi belt especially

among the small and medium traders and shopkeepers in the urban and the rural areas, among the traditional business community in Vashyas and Jains, among the masses attuned to the traditional view of politics but also among the middle level professionals and service personnel. Since 1980, it has extended its influence to pockets in South India, particularly in Kerala, Karnataka and Andhra Pradesh. After 1989, the B.J.P. has also spread its influence in Madhya Pradesh, Rajasthan, Gujarat and Delhi.

The policies and programmes of the Bharatiya Janata Party are as follows :

(1) *Political* : (a) to promote clean public life by evolving effective mechanism to break the nexus between the corrupt bureaucrats, politicians and businessmen; (b) to strengthen the institution of Lok Pal and Lokayukta Institutions; (c) to have a five (5) year term for all elected bodies (e.g. the Lok Sabha and the Vidhan Sabhas) and (d) to introduce thorough going electoral, judicial and administrative reforms in the country.

(2) *Economic* : (a) to give the States a fairer share of Central revenues and increase their financial powers; (b) to earmark 60-70 percent of the plan funds for public investment in agriculture, rural development, irrigation, etc.; (c) to adopt a National Water Policy to provide for an effective and prompt settlement of water disputes between the States and (d) to continue reforms process to aim at removing unemployment.

(3) *Social* : (a) to guarantee to all minorities—linguistic and religious—peace and security and full opportunity for progress and development ; (b) to widen the scope of the present Minority Commission ; (c) to provide a set of social services for the speedy development of rural folk ; (d) to take strong action against those fanning communalism and religious fundamentalism and (e) to support equal legal rights for women of all communities, abolition of child labour and introduction of compulsory primary education.

(4) *Foreign Policy* : (a) to work towards re-imparting dynamism to the non-aligned movement ; (b) to work actively towards reviving the morale of the defence forces ; (c) to pursue a policy of peace, friendship and co-operation with the neighbouring countries ; (d) to strengthen SAARC and establish a regional



religiosity into political browbeating. Our countrymen think themselves as Hindus, Muslims and Christians first and Indians afterwards. Again, the post-Nehru era has witnessed the fact that the political leaders have themselves violated all norms of secularism instead of making the Indian masses remarkably secular in their political outlook. Further, in our multi-ethnic State, the religious manifestations and greater self-awareness of religious communities generally hamper the process of national integration.

Lastly, the Indian people are tradition-ridden and religious-minded. Hence, so long as they cling to exploded beliefs and outworn customs, the cause of secularism is bound to suffer. For example, the Shiv Sena, the Akali Dal, the Students Islamic Movement of India (SIMI) and the Muslim League etc. are often regarded as the Hindus and Muslims fundamentalists organisations. They sometimes whip up communal or sectarian passions (e.g. demolition of Babri Mosque, barbaric acts in front of Taj Mahal, terrorist activities in the name of freedom struggle in Kashmir, secessionist activities in Punjab for Khalistan, terrorist attacks on Parliament House etc.).

To conclude, secularism in India appears both as an ideal and as a reality. It is evident that in many ways we are far from the realisation of the ideal. But it is equally apparent that there is a national consensus for the steady realisation of secularism as an operative principle of national politics. Two strategies have been pursued by the leaders and parties to promote secularisation of polity in our multi-religious situation. One strategy is to emphasise the unity of all religions based on their moral precepts and humanist teachings. And the other strategy is the need for a civic-secular rational ideology of political culture and state-craft. Therefore, the common Indians expect from the national politicians of their goodwill, culture and courage to reaffirm their faith in national values and redefine secular principles in the context of present democratic political system. Better by far, to follow our democratic Constitution and institution to build a secular common sense.

Q. 89. Discuss the role of tribal politics in India.

Or,

Discuss the impact of tribe on contemporary Indian political system.

Ans. India is a vast country inhabited by persons of several castes and tribes. In our country, the caste and tribe are the basic institutions of the social system. A tribe has been defined as a hereditary, endogamous, usually localised group, having a traditional association with an occupation and a particular position in the local hierarchy of tribes. To be stated precisely, the tribes are ethnic groups and each of these groups have their own culture, dialect, life style, social structure, rituals, value systems etc. differing some how from those of the dominant non-tribal social groups.

Tribes have been given different names such as Vanyajati, Vanvasi, Pahariya, Adimjati, Janajati and Anusuchit Janajati. The most popular word used is Anusuchit Janajati. Tribes also have many categories such as Denotified Tribes which include such people who are not permanently settled at one place. In short, the basic features of Indian tribalism are : hierarchy, endogamy, occupational associations, distinction in custom, tribe organisations and tribe mobility. The tribesmen are mostly dominated in West Bengal, Bihar, Orissa, Assam, Nagaland, Mizoram, Tripura, Manipur, Gujrat, Maharashtra, Rajasthan and Madhya Pradesh. The frontier tribals constitute 11% and non-frontier tribals comprise 89% of country's total tribal population.

In the Pre-independence period, the colonial administration created conditions in which the tribes were dispossessed and alienated from agricultural land. As a result, the tribal leaders used religious idioms and symbols to mobilise the tribals against economic exploitation, alien penetration, colonial policy of reservation of forests for extraction of timber and other forest products and to serve the needs of railways and industries. But after Independence the tribes aim at reviving tribal culture as a response to the disruption of traditional role in the new set up.

In the Free India, the tribalism has been a significant and decisive factor in our socio-political fields. Modernisation has sharpened inherited social identities. After Independence, three

important changes have taken place in our social sects—extension of adult franchise, legal outlawing of untouchability, great emphasis on equal protection of laws. And these changes have had substantial effect on the rural tribesmen. Thus tribe is a significant element in Indian Society under the impact of modern politics. It has taken new dimensions. And in the past five decades, the combination of the tribe and the democratic secular process has changed the nature of the political culture in India, imparting to its existing plurality a political connotation. It has provided to Indian politics processes and symbols of political articulation. Our top leaders may proclaim the goal of tribeless society but the newly franchised rural masses know only the language of traditional politics which so largely turns about tribe. And appeals for political support on the basis of tribe have definitely increased over the years.

Since Independence, tribe has been playing an increasingly important role in all political activities—elections, political appointments, party formations etc. When we refer to the dominant tribe in a village, region or State, we really talk about the upper tribes. In many regions, several so-called backward tribes and middle tribes occupy the positions of dominance in society and polity. In some other regions, the upper tribes are also dominant tribes, sometimes with one of two backward tribes. The tribe groupings get a chance to assert their identity and to strive for political gain. Candidates for elective offices are selected on tribal considerations and voters are persuaded to vote on tribe-lines. For example, the electoral politics in the north-east regions cannot be understood without an indepth study of the role of Nagas, Kukis, Mizos, Khasis and Jharkhis etc. Again, a number of political parties also emerged on the basis of tribal politics. The Mizoram National Front, the Jharkhand Mukti Morcha, the Manipur People's Party, the Gorkha League etc. are tribal parties as focal points of building a tribal political identity. In democratic India, these tribes are using political opportunities to retain their traditional hold and power.

\* India's political structure and processes are democratic, but its social base particularly in the vast rural area is rather tribal. The

predemocratic sociological base affects the working of democratic politics. Democratic facilities—like fundamental rights relating to free speech, expression and association, participation in the electoral system, formation of parties, free media and press and even legislative forum—are misused for tribal identity. Some tribal leaders play a different game—they want modernisation of their own tradition, yet they would like to keep their separate tribal identity as well. This helps them and their tribe to become a modernised group.

To summarise, the negative impact of tribalism on India's political system is :

(a) that it violates the basic principles enshrined in our constitution for promoting a new democratic polity, namely, the principles of justice, equality and above all fraternity assuring the unity, and integrity of the nation.

(b) that it has politicised the tribes as a divisive factor, counterposing one tribe or a group of tribes against the rest.

(c) that it has vitiated the atmosphere of elections, by projecting the pre-democratic ascriptive identities, promoting narrow loyalties, thus weakening the modernisation of polity.

(d) that by building tribal associations, pressure groups and lobbies, it seeks to retain outdated and outmoded tribe cohesion in National and State politics, which is an impediment to building up a secular society.

(e) that tribalism adversely affects the grassroots, Panchayati Raj System, by seeking to retain the traditional mould of dominant and dominated castes and thus frustrate the emergence of the new democratic culture of free and equal citizenship, irrespective of tribe, creed or bath.

(f) that it creates tension, suspicion, fear and an atmosphere of violence, by building militancy on tribal lines.

(g) that in party politics and in ministry formation, its (tribalism) role contributes to avoidable bickerings, narrow bargaining, and jockeying for power, which often leads to political instability and confusion.

(h) that the tribe-based reservation is an impediment to progress



and social change by making the beneficiaries to a community of incompetent and inferior people.

Therefore, tribalism weakens the working and stability of our democratic secular federal system and militates against the basic principles governing our national life and providing meaning to our new identity. It is tearing apart the rich and closely knit tapestry of Indian unity. In recent years, there have been recurrent and increasing number of tribal carnages in the country. This should stop if India is to emerge as a democratic secular polity. Again, it is said that the excessive zeal for the depressed classes is a fraud on the Constitution. Hence, the privileges of the tribesmen given by the State should be restricted to a great extent.

**Q. 90.** Discuss the constitutional safeguards for the protection of the rights of other Backward classes (OBCS) in India.

**Ans.** One of the cherished goals of our nation, as articulated by the national movement and enshrined in the Republican Constitution, is the establishment of the egalitarian society. This entails equity and justice for all sections of the society, without any discrimination. Certain castes and classes in India are socially and educationally backward and economically weaker. Therefore, they have been given special privileges by the Indian constitution and the laws of the land to bring them at par with the rest of the society. The constitution enjoins upon the State (Union, State, and Local Governments) the removal of untouchability, Universalisation of education, and planned economic development. In addition to this some specific safeguards have been provided for the backward classes to put them on the path of progress and equality with the rest of the citizens.

The rigid caste system for centuries has divided the Indian society vertically into high and low castes. The people of so-called low castes (backward sections) are assigned menial jobs and occupation. They are oppressed and exploited by those who belong to the so-called high castes. Since the lower castes continue to be socially backward, they remain objects of exploitation. Majority of people among the depressed sections are still illiterate.

The Constitution of India has not defined the term backward class. So, it is difficult to define. However, the phrase "backward class" is used to include depressed classes (scheduled castes and tribes) denotified tribes, and other weaker sections in India's social structure. Backwardness is expressed as lack of adequate opportunity for groups and individuals for self-development, especially in socio-economic life, and in matters of health, housing, and education. It is measured in terms of low levels of income, social status, the extent of illiteracy, and the low standard of life demonstrated by living conditions. After Independence, the Union and State Governments have tried to define other backward classes in order to make special provisions for their advancement as *Articles 15(4) and 16(4)* refer to the making of such provisions (access to places of public entertainment and reservation of jobs respectively for the advancement of socially and educationally backward classes. To achieve this objective, *Article 340 of the constitution* empowers the President of India to authorise the central Government to appoint a Backward classes commission to investigate the conditions of the socially and educationally backward classes, and to recommend removal of their difficulties and improvement in their economic condition by providing grants to them. It is said that our constitution has taken illiteracy, lack of education poverty, exploitation, non-representation in service and untouchability as the criteria for backwardness. The Supreme Court has held that social backwardness may be due to various reasons including caste but a classification based solely on caste would not be legal. In this connection, we are to note that the population of Other Backward Classes (OBCS)—both Hindu and non-Hindu—is around 52 percent of the total population of India.

Accordingly, the Constitution of India prescribes protection and safeguards for other backward classes also. Our constitution has abolished untouchability and the Protection of Civil Rights Act (1976) provides punishment for offenders. Their social and educational interests are constitutionally protected against any kind of injustice and exploitation. The constitution prohibits the denial of admission to educational institutions by the State or



receiving grant from state funds, to any citizen or ground of caste or sex. No person belonging to the backward class can be prevented from entering shops, places of public entertainments or temples, or using public wells and tanks.

Besides, after making attempts at national level through two Backwards classes Commissions popularly. Known as Kalelkar Commission and Mandal Commission, the job of identification of Other Backward Classes has been assigned to the States.

The First Backward Classes Commission was set up in January, 1953, and it submitted its report in March, 1955. Its recommendations were fairly wide-ranging, but the Commission could not present "a unanimous report. Moreover, it had not worked out objective tests and criteria for the proper classification of socially and educationally backward classes. And the said Report was not implemented by the Central Government.

The Second Backward Classes Commission headed by Mr. B. P. Mandal was appointed by the President of India in January 1979, and the Commission submitted its report in December, 1980. The Mandal Commission in its Report said that—as the population of other backward classes is around 52 percent of country's total population, accordingly 52 percent of all posts under the Central Government should be reserved for them. But this provision may go against the law laid down in the number of Supreme Court judgments, wherein it has been held that the total quantum of reservation should be below 50 percent. In view of this, the proposed reservation for other backward classes would have to be pegged at a figure, which when added to 22.5 percent of Scheduled Castes and Scheduled Tribes, remains below 50 percent. In view of this legal constraint, the Mandal Commission is obliged to recommend a reservation of 27 percent only, even though their population is almost twice this figure (52 percent). Again, the reserved quota remaining unfilled should be carried forward for a period of three years and de-reserved thereafter. Relaxation for the upper age limit (3 years) for direct recruitment should be extended to the candidates of other Backward Classes. Besides, a roster system for each category of posts should be adopted by the concerned in the same manner as is presently

done in respect of Scheduled Castes and Tribes candidates. Further, seats should be reserved for students of Other Backward Classes in all scientific, technical and professional institutions run by the centre as well as the State Governments. The quantum of reservation should be same as in the government services, i.e., 27 percent. And lastly, separate financial institutions for providing financial and technical assistance should be established for other Backward classes. The Union Government has accepted the decisions of Mandal Commission's recommendations concerning reservation and has also taken a decision in August, 1990 to reserve 27 percent of the vacancies in civil posts and services under the Union and States, public sector undertakings nationalised banks, the universities and affiliated Colleges.

Above all, in accordance with the decisions of the Supreme Court, the Central Government has formed a Committee and accepted its recommendations in 1993 on the following matters :—(a) to hear and finalise the list of persons belonging to Other Backward Classes, (b) to exclude from the right to reservation the "creamy layer" or the well-off among the backward communities (the committee excluded the former Presidents and the Vice-President, the Judges of the higher courts etc.) and (c) to confine reservation to the post of entry into a service and not to be extended to promotional posts.

We are to note that the reservation of appointments or posts for backward classes varies from state to state. In Kerala, for example, forty percent of posts in government service are reserved for backward classes. And Bihar has reserved twenty-six percent of government posts for the backward communities. As the backward class lobby is very powerful in States, there is a pressure for raising the reservation quota.

The Union and the State Governments have also launched many schemes to improve the educational standards of the students of other Backward classes. These schemes are : pre-matric examination coaching and scholarships, boarding grants, hostel facilities, free supply of books, stationery and Uniforms, mid-day meals, attendance scholarships and assistance to voluntary organisations to undertake schemes to improve the socio-economic

and educational conditions of Other Backward Classes. Other schemes implemented are : the Government of India has set up the National Commission for other Backward Classes to review the list of backward classes after every ten years. The National Commission has the powers of a Civil Court. Lastly, the Union Government has also set up a Finance and Development corporation for other Backward classes to provide financial assistance to them for projects aimed at bettering their skill and lot. And the corporation in furtherance of its objective has spent Rs. 120 lakh during 1998-1999.

It may be pointed out that the backward classes have developed strong vested interests in their backwardness. The system of reservation in government posts and services undermines the efficiency and morals of the civil service by inducting candidates of sub-standard quality into administration. Again, the groups and persons included in other backward classes are them selves on various levels of backwardness, some being relatively more advanced than others. And the worst is that the system of reservation among other backward classes perpetuates caste and class distinctions, which have always been the bane of our society.

**Q. 91. What is Regionalism ? How does it influence Indian polity ?**

*Or,*

**Explain the meaning of the term "Regionalism" in India. Discuss the consequences of Regionalism on the democratic political system in India.**

**Ans.** India, a classic traditional society is also the most authentic and complex federal polity in the world. This is evident from multiple lines of variation and diversities—ethnic division, culture patterns, social customs, religious beliefs, long-usages and dialects, regional and sub-regional identities. While there is a pervasive sense of Indian unity, yet the existence of these socio-cultural diversities underline the need to build a new viable federal national identity. That indeed is one of the main concerns and challenges of contemporary Indian politics. Within its territorial jurisdiction, the Republic of India encompasses as of now 28

States and 7 Union Territories (including Delhi). There are 8 major religious communities. The scheduled castes and tribes account for about 24 percent, and other tribal and backward percent population scattered all over the country constitute about 68 of the total population. Besides, there are 18 major languages groups in the country. And lastly, while 77 percent of India's population lives in villages, its 23 percent population inhabits urban cities and towns.

But let it be remembered that the states are not constituted entirely on the basis of linguistic homogeneity. Many other variable and critical factors like ethnic-cum-economic considerations; religion and sentiments ; historical and political factors ; and social and cultural distinctiveness have played a decisive role in the composition of the Indian federation.

But more than language, the most important factor is regionalism. It is said that nothing is more basic to the very concept of federalism than regionalism and sub regionalism. Regionalism is derived from the word "region" which is a defined territorial unit including particular language or languages, jatis, ethnic groups or tribes, particular social setting and cultural pattern. Regionalism is one of the new issues emerging on the political horizon of India after Independence. Regionalism is a strong feeling of pride or loyalty that the people in a region have for that region, often including a desire to have more power to govern themselves. In certain cases, it is love for a state to which the region belongs in preference to a nation. The essence of regionalism is characterised by a widely shared sentiment of "togetherness". According to *Iqbal Narain*, regionalism in India has both a positive and a negative demension. Speaking in positive terms, it embodies a quest for self-fulfilment on the part of the people of an area. Negatively speaking, regionalism reflects a psyche of relative deprivation resulting from specific grievance. Thus regionalism can be defined as a manifestation of those residual elements which do not find expression in the national polity and national culture. And being excluded from the centrality of the new polity, express themselves in political discontent. To be stated precisely the feeling of regionalism may arise due to

continuous neglect of the region by the ruling authorities. It may also spring up as a result of increasing political awareness of the henceforth backward people that they have so far been discriminated against. We can easily identify such regions as Bodoland in Assam, Gorkhaland in West Bengal, Vidharva in Maharashtra, Ladakh in Jammu and Kashmir, and Telengana in Andhra Pradesh etc.

Let us now discuss in brief the factors that contributed to the growth of regionalism in India. *First*, history has contributed to the origin of regionalism doubly, i.e. positively and negatively. For example, the origin of Shiv Sena is a proof of positive contribution and of Dravida Munnetra Kazhakan (D.M.K.) a negative one. *Second*, after Independence, the states have been reorganised on the basis of old boundaries and so the people living in one state have not been able to develop the feeling of oneness. Generally, language and culture lead to regional sentiments. The inhabitants of Tamil Nadu consider their language and culture to be superior to Indian culture. *Third*, caste has also contributed significantly to the growth and development of the regionalism. Domination of a single caste at a place leads to violent form the regionalism. That is way regionalism is at its worst in Haryana and Maharashtra and is absent in Uttar Pradesh. *Fourth*, economic cause play a vital role in the origin of regionalism. There has been an unequal economic development in India. So the feelings, of regionalism originate among the people belonging to the backward areas and they demand states. *Fifth*, the weakening of the central authority has helped the regional leaders to enhancing their own authority and power by arousing regional sentiments among the people.

Normally, regionalism finds expression in three kinds of demands :—(i) demand for regional autonomy (e.g. Tamil Nadu and Punjab) ; (ii) demand for separate statehood (e.g. the Gorkhas in West Bengal, and Bodos in Assam); and (iii) desire to secede from the Indian Union (e.g. the Mizos and the Nagas etc.).

Regionalism has enormously affected Indian politics and is confronting the country as a cardinal complicated problem. Every citizen enjoys Indian nationality in the Constitution, but the people are so much dominated by regional and provincial

sentiments that they are ready to sacrifice national interests for the sake of regional or provincial welfare. Regionalism has been quite dominant in the Indian political system since 1950.

Regionalism greatly influences the Indian polity. Its effects are ; (a) regionalism has given birth to a number of regional political parties which symbolise the need and aspirations of the people of various regions—the DMK and AIADMK in Tamil Nadu; the Telugu Desam in Andhra Pradesh, the Akali Dal in Punjab and the National Conference in Jammu and Kashmir. They also appear in West Bengal, Assam, Mizoram etc. To a great extent, the regional parties are relevant to the people who fear that their culture and identity are not safe ; (b) there is also demand for full-fledged state-hood. It means that regionalism has led to demands for smaller states. The newly created states like Uttaranchal, Jharkhand and Chattisgarh confirm this truth. Again the Gorkha National Liberation Front of West Bengal under the leadership of Subash Ghosh has steered the demand for a separate Gorkhaland ; (c) Sometimes disputes arise over the use of Kaveri Waters amongst the States of Tamil Nadu and Karnataka. There is also a boundary dispute between Maharashtra and Karnataka on Belgaum. In all these cases, every Chief Minister has endeavoured to obtain the maximum advantage for his own state, forgetting that his state is an intrinsic part of the Indian Union ; (d) regional politics may cripple the strength of the central government in India. The emergence of strong regional parties may ultimately create situation of political instability in India ; and (e) in many cases, people had recourse to armed insurrection. Over the years, the Jammu-Kashmir Liberation Front (JKLF) and the Bodo Liberation Tigers (BLT) of Assam have seriously disturbed public order, leading to enormous loss of life and property of the regions.

In fact, most of the regional parties have come of age and have show that they tend to behave responsibly when in power. Let us differentiate between regional aspirations and separatist tendencies. If a party does not harbour secessionist and separatist designs, there is no reason why it should not be allowed to operate. After all it is much better to have open political activity than secret



underground bodies or organisations. If the centre and the states work in full understanding, strictly on the basis of guidelines that the framers of the Constitution have laid down, there can be no scope for confrontation. National and regional parties must co-exist to promote public welfare. Neither should harbour the erroneous idea that regionalism is not compatible with nationalism. Both must work within the framework of the constitution. Parties should follow a rational policy in relation to problems of regional loyalties vis-a-vis the national ideas.

## SHORT QUESTIONS AND ANSWERS

### Preamble and Features of the Constitution of India

Q. 1. Meaning of the Preamble to the Constitution of India.

Ans. In India, the Preamble is the preface of the Constitution. It embodies the fundamental values and philosophy on which the Constitution is based and the aims and objectives (socialism, secularism, justice, liberty, equality *etc.*) which the founding-Fathers have enjoined the polity to strive to achieve. The Preamble is the very soul of our Constitution. And it is justiciable.

Q. 2. Significance of the Preamble to the Constitution of India.

Ans. In India, the Preamble has much Constitutional significance. The Preamble declares that the source of the Constitution is the people of India. It indicates the secular, socialist and democratic ideas of the Constitution. Preamble is a key to open the mind of the makers of an Act. If a rule or law is vague, the Preamble can be referred to in order to make out its meaning. And lastly, the Preamble is justiciable and is also an integral part of the Constitution. It contains the basic structure of the Constitution, and parliament has no power to alter it.

Q. 3. Implication of the expression "We, the people of India" in the Preamble to the Constitution of India.

Ans. The Preamble of the Indian Constitution begins with the words "We, the people of India." These words imply that the Indian people are the source from which the Constitution springs. They are the Constitution-makers. Our Constitution is enacted by the people of India through their elected representatives. It is said that the Constitution of India has its roots in the people and also it derives its authority from the people. Thus the ultimate authority of all governmental agencies, springs from the will of the people as expressed in the Constitution.

**Q. 4. Meaning of Socialism in the Preamble to the Constitution of India.**

**Ans.** The Constitution of India (42nd Amendment Act, 1976) has introduced the word "socialist" (in the Preamble) to qualify our Republic. The text of the Preamble as amended gives almost the highest place of honour to the objectives of socialism. However, the term "socialism" has not been defined by the Constitution. In Indian context, the "socialist" gives a positive direction to State activities. They include—wiping out poverty, increasing production, modernising the economy, preventing the growth of monopoly reducing disparities and inequalities between different classes, castes and religions. In short, it seeks to establish a welfare State.

**Q. 5. Meaning of Secularism in the Preamble to the Constitution of India.**

**Ans.** The word "secular" has been inserted in the Preamble of the Constitution by its 42nd Amendment Act, 1976. But the word "secular" is very ambiguous and it has not been precisely defined in the Constitution. The secularism of the Indian polity means equality of rights to all citizens as citizens with their religions being irrelevant in the matter. The State (Union and State governments) does not owe loyalty to any particular religion as such, it is not irreligious or anti-religious; it gives equal freedom to all religions. In short, in Indian secularism, all citizens are treated alike and not discriminated against on account of their religions.

**Q. 6. Meaning of Social and Economic Justice in the Preamble to the Constitution of India.**

**Ans.** In our Constitution, the Preamble places justice higher than the other principles of liberty, equality and fraternity. And justice is elaborated as social and economic justice. Social justice implies that all citizens are treated equally irrespective of their status in society. Provisions for human conditions of work, prohibition of discrimination in public places, removal of social barriers like untouchability etc. are all directed towards social justice.

The Constitution of India also secures a new economic order imbued with justice. It lays a special emphasis on the right to

work, right to get adequate wages, prevention of concentration of wealth etc. It also implies freedom in the sphere of production and distribution subject to the general welfare.

**Q. 7. Any two fundamental features of the Constitution of India.**

**Ans.** Two features : (a) The Constitution of India is a comprehensive written document with 405 Articles and 13 Schedules. It deals with the detailed provisions relating to the organisation and functions of the legislative, executive, and judicial branches of the governments of the Union and the States; and (b) India is a federal State though the Constitution describes it as a Union of States. Indian federation is formed on the Canadian model. It is marked by the dual government, distribution of powers, supremacy of the judiciary, but single citizenship.

**Q. 8. Procedures of amendment of the Constitution of India.**

**Ans.** Article 368 of the Constitution of India deals with the process of its amendment. Certain provisions of the Constitution (e.g. fundamental rights and directive principles) can be amended by a majority of total membership and also a majority of two-thirds of the members present and voting in each House of the Lok Sabha and the Rajya Sabha. And the federal provisions of the Constitution (e.g. distribution of powers, election of the President etc.) require to be amended by a majority of total membership as well as two-thirds of the members present and voting separately in the Lok Sabha and the Rajya Sabha. Here the ratification of half of the State Legislatures is required.

**Q. 9. Some of the Important sources and Basic characteristics of the Constitution of India.**

**Ans.** Sources : (a) The Constitution of Great Britain,  
(b) The Constitution of America,  
(c) The Constitution of Canada,  
(d) The Constitution of Ireland, and  
(e) The Government of India Act, 1935.

**Characteristics :** (a) Popular sovereignty based on the idea of Universal adult franchise,

(b) Parliamentary form of Government,

- (c) Social Justice, through the provisions of Fundamental rights and Directive principles,
- (d) Secularism,
- (e) Federalism,
- (f) Judicial independence,
- (g) Idea of Flexibility and Rigidity through an amending process.

**Q. 10.** Any two non-parliamentary features of the Indian Governmental system.

**Ans.** India's form of Government is more or less similar to that of the British system of parliamentary government. But our governmental machinery unlike its counterpart in Great Britain, is marked by two non-parliamentary feature :

- (a) The Prime Minister of the Union Government may be appointed from either House of Parliament—Lok Sabha or Rajya Sabha; and (b) The Ministers are entitled to attend the Sessions of both the Lok Sabha and the Rajya Sabha and take part in the deliberations. However, a Minister votes only in the House to which he belongs.

### **Fundamental Rights and Duties and Directive Principles**

**Q. 1.** Any two characteristics of the fundamental rights in the Constitution of India.

**Ans.** Two features : (a) The fundamental rights are not natural rights. They are in a way of gifts of the State. For, the State can confer additional fundamental rights through the revision of the Constitution ; and

- (b) Fundamental rights are both positive and negative. Positive rights confer some privileges on the citizens, e.g., the right to practise any profession. But the negative rights impose restrictions on the executive of the State. For example—abolition of Untouchability.

**Q. 2.** Meaning of the expressions "equality before the law" and "equal protection of laws" in Article 14.

**Ans.** Our Constitution in Article 14 proclaims that all persons are equal before the law and enjoy equal protection of laws within the territory of India. Equality before the law is used in the

negative sense. It means the absence of special privileges. For example, the government officials and the private individuals are subject to the ordinary laws and the ordinary courts. On the otherhand, the equal protection of laws is a positive concept. It signifies that all persons are to be treated equally in similar circumstances. In other words, the State should not make any discrimination between one person and another.

**Q. 3.** "Six Freedoms" in Article 19 of the Constitution of India.

**Ans.** According to Article 19 of our Constitution, the citizens of India have the right to—

- (a) freedom of speech and expression,
- (b) assemble peacefully and without arms,
- (c) form associations or unions,
- (d) move freely throughout the territory of India,
- (e) reside or settle in any part of India, and

(f) practice any profession or to carry on any lawful trade or business. But these freedoms are subject to limitations. The State can impose reasonable restrictions on grounds of security of State, public order, decency, contempt of court etc.

**Q. 4.** Right against Exploitation (Articles 23-24).

**Ans.** The Constitution of India prohibits traffic in human beings and forced labour. But the State may compel a person to work for public purposes such as construction of roads. And Article 24 specifically prohibits the employment of children below the age of 14 years in factories and mines. This is in keeping with the human rights concepts and the United Nations norms.

**Q. 5.** Preventive Detention Act.

**Ans.** The Constitution of India in Article 22 deals with the Preventive Detention Act. The Parliament has been empowered by the Constitution to make laws to detain a person without trial for the security of India or any part thereof, and also for the maintenance of essential services of the community. When a person is arrested under the Preventive Detention Act, he must be informed of the grounds of his arrest. The arrested person



may be allowed to consult a lawyer of his own choice. Moreover, he cannot be detained in custody for a period not exceeding two months.

#### Q. 6. Right to Freedom of Religion.

Ans. The Constitution of India in Articles 25-28 grants freedom of religion to all persons. It grants to every person the right to freedom of belief, faith and worship. Thus the people have the right to freely profess, practise and propagate religions of their own choice, and the State cannot interfere in the religious activities of the individuals in any manner. All religions have the right to establish and maintain institutions for religious purposes. Again, the State cannot compel the individuals to pay taxes for religious denominations. In India, the State has no religion of its own and it does not propagate religious instructions in governmental institutions. Thus India has become a secular State.

#### Q. 7. Right to Constitutional Remedies in the Constitution of India.

Or, Enforcement of Fundamental Rights under Article 32.

Ans. Under Article 32 of the Constitution of India, the Supreme Court has the power to issue writs for the enforcement of fundamental rights. Five writs are :-

(a) **Habeas corpus** :- It means that no person can be detained for an indefinite period without trial;

(b) **Mandamus** :- It empowers the Supreme Court to compel a public official to discharge his duties properly;

(c) **Prohibition** :- It implies that our Highest Court may prevent a lower court from exercising any judicial power which is not within its jurisdiction;

(d) **Certiorari** :- It signifies that the Supreme Court has the power to direct an inferior court to submit the record of proceedings of a case pending before the latter; and

(e) **Quo Warranto** :- It is an injunction to determine whether a person has the requisite qualifications or not to hold any office under the State.

#### Q. 8. Limitations upon the Fundamental Rights.

Ans. In India, the fundamental rights are not absolute. They

are subject to certain limitations :-

(a) The Union Parliament can modify the fundamental rights in their application to the members of the armed forces;

(b) During the operation of Martial Law, the Parliament has the power to indemnify a government servant for his actions;

(c) When a national emergency is in force (Art 352), the citizens cannot enjoy freedoms of speech, assembly, and organisation; and

(d) During the period of national emergency, the President may suspend the power of citizens to move the Supreme Court for the protection of the fundamental rights.

#### Q. 9. Prohibition of Discriminations in Article 15.

Ans. Article 15 of the Constitution of India deals with prohibition against discriminations. It prohibits the State to make any discrimination against any citizen on grounds only of race, caste, sex, religion, place of birth etc. All citizens irrespective of race, caste, sex, religion etc. are entitled to enjoy equal rights with regard to access to shops, hotels, bathing ghats etc. But the State has the right to make any special provision for women, children and also for the Scheduled castes and Tribes.

#### Q. 10. Fundamental Duties of Indian Citizens.

Ans. Part IV-A of the Constitution of India contains several important fundamental duties. It is the duty of a citizen to—

(a) abide by the Constitution, and respect the National Flag and the National Anthem ;

(b) uphold and protect the unity and integrity of India,

(c) promote harmony and the spirit of common brotherhood amongst all the people of India ;

(d) protect and improve the natural environment including forest, river and wild life;

(e) to safeguard public property; and

(f) value and preserve the rich heritage of our composite culture. But the fundamental duties are not enforceable by the law-courts. However the sanction behind the fundamental duties is the force of public opinion.

**Q. 11. Relation between Fundamental Rights and Fundamental Duties.**

**Ans.** Under the Constitution of India, the fundamental rights and the fundamental duties are closely related. We have a set of fundamental duties (Part IV-A) in addition to the fundamental rights (Part III) in the Constitution. A citizen should exercise his fundamental rights in such a way as not to interfere with the rights of other citizens. For example, every person has the freedom of religion. So, he must not intervene in the religious affairs of others. Like the fundamental rights, the fundamental duties also enable the citizens to secure participation in the political system more effectively. In short, the fundamental rights and fundamental duties are intended to evoke the citizens to love for the Motherland and respect for the Constitution and laws of the country. Hence, the fundamental rights and the fundamental duties are correlative.

**Q. 12. Directive Principles of State Policy.**

**Ans.** The directive principles are certain instructions which the State should pursue both in administration and in legislation. Again, there are certain aims and ideals which the State must secure to all its citizens. Here the State means not only the Union and State governments but also the local authorities within India. Some important directive principles are : Uniform civil code, Organisation of village panchayats, development of cottage industries, workers participation in the management etc. Although not enforceable by the law-courts, the directive principles are fundamental in the governance of the country.

**Q. 13. Aim or objective of the Directive Principles of State Policy.**

**Ans.** According to the Constitution of India, the State shall strive to promote the welfare of the people by securing and protecting a social order in which social, economic and political justice shall inform all the institutions of national life, this sums the aim which the framers of the Constitution had in mind in including the directive principles in the Constitution. The welfare State is the ideal and the State must use all its energies for the

attainment of general welfare. It makes the real type of democracy as the aim of the State in India.

**Q. 14. Some examples of Gandhian and Socialist Directive Principles.**

**Ans. Gandhian Principles :-**(a) Organisation of village panchayats,

(b) Development of cottage industries in rural areas;

(c) Prohibition of the consumption of intoxicating drinks and drugs ; and

(d) Promotion of educational and economic interests of the weaker sections of the people.

**Socialist Principles :-**(a) Workers participation in the management of industries;

(b) Securing just and humane conditions of work and maternity relief ;

(c) Equal pay for equal work for both men and women; and

(d) Prevention of concentration of wealth in a few hands.

**Q. 15. Major differences between the Fundamental Rights and the Directive Principles of State Policy.**

**Ans.** Fundamental rights compared with the directive principles reveal some important differences :

(a) The fundamental rights have been described in clear precise words, but the directive principles are enunciated in the form of general aims and objectives of the State policy;

(b) The fundamental rights are negative and they impose serious limitations upon the authority of the State. But the directive principles are positive and as such they give instructions to the government to pursue a policy for realisation of good life of citizens ; and

(c) The fundamental rights are justiciable. That is, the rights can be enforced in a court of law. But the directive principles are un-fundamental in nature. It means that they are not enforced by the law-courts.

**Q. 16. Significance of the Directive Principles of State Policy.**

**Ans.** The directive principles are treated as positive mandates, and part and parcel of the human rights provisions of the

Constitution of India. For, through them the Constitution seeks to achieve the ideal of a democratic welfare State. The Constitution states that the directive principles are fundamental in the governance of the country. Even the judiciary has to keep them in mind while interpreting the laws as they constitute the spirit of the Constitution. In the last analysis, a real sanction behind all laws is the public opinion which is also the sanction behind the directive principles. For instance, if a party in power ignores these principles, it will certainly have to answer for them before the electorate, when the next election comes.

**Q. 17. Relation between the fundamental rights and the directive principles.**

**Ans.** The fundamental rights and the directive principles are the integral and valuable parts of the same Constitutional edifice. They are all equally important and have to be read with each other. Their emphasis is on building an egalitarian society and on the concept of socio-economic justice. Although not enforceable in law-courts, the directive principles are fundamental as guiding principles for making and administering the laws of the country. We can say that the fundamental rights and directive principles together constitute the soul of the Constitution. In short, there is no essential dichotomy between the fundamental rights and the directive principles. They complement and supplement each other.

### Nature of Indian Federalism and Union-State Relations in India

**Q. 1. Significance of Article 1 of the Constitution of India.**

**Ans.** The Indian Constitution in Article 1 describes India as a "Union of States". According to *Dr. Ambedkar*, there are two advantages in using the expression "Union of States".

*Firstly*, the Indian Union is not the result of an agreement by the States to join the federation. It implies that the States were not sovereign before the formation of the federation.

*Secondly*, the Indian Union is indestructible. The constituent State have no right to secede from the Union.

**Q. 2. Two un-federal features of Indian Constitution.**

**Ans.** (a) Parliament has exclusive control on 99 union subjects and over-riding control over 52 concurrent items of common importance. Besides, the residuary powers are given to the Parliament ; and

(b) The Governor is the agent of the Union government. His appointment, transfer and removal are all placed under the control of the Union. Certain State bills are also reserved for the consideration of the President.

**Q. 3. Co-operative federalism in India.**

**Ans.** In India, the Centre-States relations have been described as a form of co-operative federalism. It means that neither the Centre nor the State can impose decisions on the other. Rather there is an open emphasis on cooperation, harmony and partnership. For example ; protection of environment, family planning, economic and social planning etc. are the spheres in which considerable co-operation exists between the Centre and the States. The Constitutional framework of the Centre-States relations is sufficiently flexible and has the capacity to enable the system to handle problems as they arise. For example, during the President's rule, the Vidhan Sabha of the State cannot be dissolved without the resolution of the Parliament.

**Q. 4. Some important subjects of legislation in the three lists.**

**Ans.** The Constitution of India has distributed the legislative powers between the Centre and the States into three lists :-

(a) Parliament has exclusive authority to make laws on 99 subjects enlisted in the *Union List*. For example, security of State, defence, foreign affairs, currency and coinage etc.

(b) The State Legislatures make laws on 61 subjects contained in the *State List*. For example, public order, public health, agriculture, local government etc.

(c) Both the Parliament and the State Legislatures are empowered to legislate on 52 Concurrent items. For example marriage and divorce, education, forests, social security etc. However, if there is a conflict, the Union law prevails. And lastly, the residuary powers belong to the Centre.



### Q. 5. The Concurrent List.

**Ans.** In the *Concurrent list*, 52 items are enumerated to strengthen the unity of the country and for better use of national resources. The important items are—education, forests, marriage and divorce, civil and criminal procedure, social security etc. These subjects are obviously such as may at sometimes require legislation by Parliament and at others by the State Legislatures. However in case of conflict between the Union and State laws in the Concurrent list, the Constitution recognises the supremacy of the Union law over the State law.

### Q. 6. Significance of Article 249 as enumerated in Indian Constitution.

**Ans.** Under certain extra-ordinary circumstances, the Union Parliament can legislate on a subject in the State list in the interests of the nation. Article 249 stipulates that Parliament has the power of legislation with regard to any item mentioned in the State list in the national interest, if the Rajya Sabha passes a resolution to that effect supported by a majority of not less than two-thirds of the members present and voting.

### Q. 7. The Union government's two executive directions to the States.

**Ans.** (a) The executive power of every State is so exercised as to ensure compliance with the laws made by the Parliament. For that purpose, the Union government may give directions to a State;

(b) The Union government may also give directions to any State for the construction and maintenance of means of communication of national and military importance, as well as for the protection of railways within the State.

### Q. 8. Inter-State Council.

**Ans.** In accordance with Article 263, the President of India is empowered to establish an inter-State Council—

(a) for inquiring into and advising upon disputes which may arise between the States ;

(b) to investigate and discuss subjects in which the Union and the States have common interests ; and

(c) to make recommendations for the better co-ordination of policy and action with respect to any subject or subjects.

The Inter-State Council was established in 1990. In its meetings on several occasions, the Council has discussed different issues like the appointment of the Governor with the consent of the State Chief Minister ; and also border disputes and language problems arising between the States concerned.

### Q. 9. Centre-State financial relations in India.

**Ans.** The Centre-States financial relations are described below :—

(a) Duties levied by the Union but collected and appropriated by the States (e.g. stamp duties, excise duties on medicinal and toilet preparations) ;

(b) taxes levied and collected by the Union but assigned to the States (e.g. taxes on railway fares and freights etc.); and

(c) taxes levied and collected by the Union but distributed between the Union and the States (e.g. income tax, union excise duties). In this connection, we are to note that Union Government's major sources of revenue are :— railways, posts and telegraphs, corporation tax, export duties etc. And the State government's revenues are :— land revenues, taxes on agricultural income, taxes on professions and trades etc.

### Q. 10. Delegation of administrative functions.

**Ans.** According to Article 258 of the Constitution of India, the President may, with the consent of the government of a State, entrust to that government functions in relation to any matter to which the executive power of the Union extends and a law made by the Parliament which applies in any State. Similarly, under Article 258A, the Governor of a State may, with the consent of the Union government, entrust to that government functions in relation to any matter to which the executive power of the State extends.

### The Union Executive—The President, The Prime Minister, and the Council of Ministers

#### Q. 1. Election of the President of India.

Ans. Under the Constitution of India, the President of our Republic is elected by an electoral college consisting of—

(a) the elected members of both Houses (Lok Sabha and Rajya Sabha) of Parliament, and

(b) the elected members of the Legislative Assemblies (Vidhan Sabhas) of States. The election is held in accordance with the system of proportional representation by means of the single transferable vote ; and in order to win election, a candidate is required to obtain quota which is—

$$\frac{\text{Total number of valid votes}}{2} + 1$$

#### Q. 2. Removal of the President of India.

Ans. According to the Constitution of India, the President of the Republic can be impeached for the violation of the Constitution. A resolution preferring such charge can be initiated in either House (Lok Sabha or Rajya Sabha) of Parliament. If such a resolution is passed by a majority of two-thirds of the total membership of each House of Parliament, the President of India is forthwith removed from the office.

#### Q. 3. Two legislative powers of the Indian President.

Ans. The President of India is an integral part of the Parliament. For, our Parliament is composed of the President, the Lok Sabha and the Rajya Sabha. Two legislative functions are :—

(a) The President summons and prorogues the Houses of Parliament. He can dissolve the Lok Sabha. Again, the President addresses both Houses of Parliament assembled together at the first session each year ; and

(b) The President may give his assent, to a public bill or may refuse his assent. Again, no money can be granted unless recommended by the President, nor can the money bill be introduced except on his recommendations.

#### Q. 4. Ordinance-making power of the President of India.

Ans. When the Parliament is not in session, the President may issue an ordinance which renders it necessary for him to take immediate action. It has the same force as the law of Parliament. But it must be placed before the Parliament when it again assembles. If it is then approved by both Houses of Parliament, it will cease to operate after six weeks of the date of reassembly of Parliament.

#### Q. 5. Proclamation of Emergency (Article 352).

Ans. Under Article 352 of the Indian Constitution, the President may proclaim state of Emergency in the country if he is satisfied that a grave situation exists where by the security of India or any part thereof is threatened by war or external aggression or armed rebellion. The life of the proclamation of emergency is fixed at six months unless renewed by the Parliament. The important effects of proclamation of emergency are :—six freedoms in Art 19 remain suspended. And Parliament can legislate on any subject in the State List.

#### Q. 6. Effects of President's Rule in a State.

Ans. Effects :—

(a) The State Council of Ministers is dismissed and the President may assume to himself all or any functions of the State or may vest these functions to the Governor ;

(b) The powers of the State Legislature are exercisable by or under the authority of Parliament ; and

(c) The President may spend money from the Consolidated Fund of the State, pending the approval of Parliament.

#### Q. 7. Financial Emergency (Article 360).

Ans. The Constitution of India empowers the President to proclaim a state of financial emergency if the financial security or stability of the country is badly shaken. Its normal duration is two months unless renewed by the Parliament. And its effects are—the Union government may give directives to the States to observe the canons of financial propriety. All money bills passed by the State Legislatures are reserved for the consideration of the President.



And the President may issue directives for reducing the salaries and allowances of the government employees and the Judges of the courts.

**Q. 8. Constitutional position of the President of India.**

**Ans.** Under the Indian parliamentary system, the President of the Republic is a mere Constitutional figurehead. He is the head of the State but not of the government. He represents the nation but does not rule the nation. The President of India is the ornamental President acting on the advice of his Ministers. There is no special provision for any discretionary exercise of powers during the emergency. Although our President is the nominal head, much depends on his personal qualities and the role he plays in moments of political crisis. In short, the President is a symbol of national unity, magnet of loyalty and apparatus of ceremony.

**Q. 9. The Vice-President of India.**

**Ans.** The Vice-President of India is elected by an electoral college consisting of the members of two Houses (Lok Sabha and Rajya Sabha) of Parliament. The election is held in accordance with the system of proportional representation and the single transferable vote. The Vice-President's tenure is five years, unless he resigned or removed earlier. The major functions of the Vice-President are :—

(a) The Vice-President is the ex-officio Chairman of the Rajya Sabha. His decision is final in regard to propriety of questions asked by the members. He can only exercise casting vote in case of tie ; and

(b) The Vice-President officiates as the President of the Republic and he discharges his functions in the event of death, resignation, or removal of the President. Thus, next to the President of India, the highest position in the country is accorded to the Vice-President.

**Q. 10. Two important functions of the Prime Minister of India.**

**Ans.** Under the Indian parliamentary democracy, the Prime

Minister is the head of the Union government, and thus he exercises two important functions :—

(a) The Prime Minister selects the persons and recommends to the President to appoint them for the Council of Ministers. The number of Ministers and the distribution of portfolios amongst them are determined by the Prime Minister, and

(b) The Prime Minister presides over the meetings of the Union Cabinet. He supervises and co-ordinates the activities of different departments.

**Q. 11. Appointment and Removal of the Prime Minister of India.**

**Ans.** Under the Constitution of India, the Prime Minister is appointed by the President of the Republic. The Constitution directs the President to appoint the leader of the single largest political party or a Front constituting different political parties in the Lok Sabha as the Prime Minister of India. The Prime Minister may also be appointed from among the members of the Rajya Sabha.

The normal tenure of the Prime Minister is five years unless he resigned or removed earlier. The Lok Sabha may throw the Prime Minister and his political partners out of office by passing a motion of no-confidence.

**Q. 12. Relationship between the President and the Prime Minister in India.**

**Ans.** In India's parliamentary democratic system, the Prime Minister acts as the chief adviser of the President. He is the link between the Council of Ministers and the President. He advises the President in the appointment of the Ministers and important officers of the Union government. It is also the duty of the Prime Minister to communicate to the President all important decisions of the Council of Ministers relating to the administrative affairs of the Central government and proposals for legislation. He may advise the President to summon and prorogue the sessions of Parliament. The Prime Minister has also the power to advise the President to dissolve the Lok Sabha and to order a fresh election.



**Q. 13. Relationship between the Prime Minister and the Council of Minister.**

**Ans.** In India, the Council of Ministers is the real executive of the Union government and the Prime Minister is its leader. The Prime Minister is central both to the life and death of the Council of Ministers. The Council of Ministers is formed by the President on the advice of the Prime Minister. The Prime Minister distributes portfolios among the Ministers. He summons, prorogues, and presides over the meetings of the Union Cabinet. Again, he supervises and co-ordinates the activities of different departments. The Prime Minister also settles the departmental disputes. He usually consults his Cabinet colleagues on all important problems of domestic and foreign affairs. If any minister disagrees with the Prime Minister, he shall have to resign.

**Q. 14. Position of the Prime Minister of India.**

**Ans.** In India's parliamentary democratic government, the Prime Minister occupies a unique position as the most powerful functionary who controls both the Council of Ministers and the Parliament. As the head of the Council of Ministers, the Prime Minister is the head of the government. Also, he is the leader of the party in Parliament, and the leader of the popular House. The Council of Ministers looks to him, for solidarity and the Parliament looks to him for the redress of their grievances. In the ultimate analysis, however, much depends on the personality of the Prime Minister and the level of acceptance and support he commands from the nation, his party, and the Parliaments.

**Q. 15. Council of Ministers in India.**

**Ans.** In Indian parliamentary system, the actual administrative of the Union government is carried on by the Council of Ministers headed by the Prime Minister. The Ministers are appointed by the President on the recommendation of the Prime Minister. There are three categories of Ministers—

- (a) Cabinet Ministers,
- (b) State Ministers, and
- (c) Deputy Ministers. They hold office during the pleasure of the President.

The Council of Ministers plays the key role in executive, legislative, and financial spheres. It determines and formulates the domestic and foreign policies of the government. Besides, the Cabinet co-ordinates the workings of different departments. Moreover, the Council of Ministers summons and prorogues the sessions of Parliament. More than ninety percent bills are government bills are prepared by the Ministers. They are introduced and piloted in the Parliament by the Ministers.

**Q. 16. Collective responsibility of the Union Council of Ministers.**

**Ans.** The principle of collective responsibility of the Union Council of Ministers is the crowning feature of the Indian parliamentary system. It means that the entire council of Ministers is jointly responsible to the Lok Sabha for the policies and actions of the Union government. There are several methods by which the Lok Sabha ensures the responsibility of the Ministers, such as, asking questions, cut motion, adjournment motion, motion of no-confidence etc. Therefore, if the Council of Ministers loses the confidence of the Lok Sabha, the entire Ministry must resign.

### Indian Parliament

**Q. 1. Constituent parts of the Indian Parliament.**

**Ans.** The constituent parts of the Indian Parliament are—

- (a) the Presidents,
- (b) the Lok Sabha, and
- (c) the Rajya Sabha.

Our President is an integral part of the Parliament. He summons, prorogues the Parliament and can dissolve the Lok Sabha. No bill can become an Act without the assent of the President.

The Lok Sabha is the lower House and is the direct choice of the people. Money bill and most of the public bills originate in the Lok Sabha. And the Rajya Sabha is the upper House. It is partly elected and partly nominated. It can delay a public bill and a money bill for six months and 14 days respectively. It has also the power to create more All-India services.

**Q. 2. Organisation (composition) of the Lok Sabha.**

**Ans.** The Lok Sabha is the lower House of Indian Parliament. It consists of 547 members—

- (a) 525 members represent the States,
- (b) 25 members are from the Union Territories, and
- (c) 2 members are nominated by the President from the Anglo-Indian community. The members are directly elected by the citizens of 18 years of age and above. The tenure of Lok Sabha is five years. The members elect a Speaker from among themselves to preside at its meetings.

**Q. 3. Speaker of the Lok Sabha.**

**Ans.** After a new Lok Sabha is constituted, its members elect a Speaker from among themselves. The Speaker presides over the meetings of the Lok Sabha. He controls the debates, maintains decency and decorum in the House. He interprets the rules of procedure of the Lok Sabha. If there is no quorum, the Speaker may suspend the meeting of the House. His rulings are final. He may vote in case of a tie. The Speaker may determine the propriety of a money bill. And lastly, the Speaker, the guardian of the rights and privileges of the members of the Lok Sabha. It is again the Speaker who maintains a close contact between the President and the Lok Sabha.

**Q. 4. Composition of the Council of States (Rajya Sabha).**

**Ans.** The upper House of the Indian Parliament is called the Rajya Sabha. The maximum strength of the Rajya Sabha is 250. Of these, 238 members represent the States and Union Territories; and they are elected by the method of proportional representation and single transferable vote. And the remaining 12 members are nominated by the President from amongst those citizens who have special knowledge or practical experience in Art, Science, Literature, and Social Service.

The Rajya Sabha is quasi-permanent body. Members are elected for six years, but one-third retires second year. The Vice-President of India is the ex-officio Chairman of the Rajya Sabha.

**Q. 5. Constitutional status of the Rajya Sabha in India.**

**Ans.** In the frame-work of the Indian Constitution, the Rajya Sabha possesses significant powers and in certain respects even enjoys equality with the Lok Sabha. The Rajya Sabha has consistently reflected the feelings, hopes, and aspirations of the Indian citizens. Its achievements in the various fields—political, social and economic—have been considerable. Stalwarts have been among the Speaker of the Rajya Sabha. The traditions laid down by the Rajya Sabha are of extremely high order. However, our Rajya Sabha stands midway between the American Senate and the British House of Lords.

**Q. 6. Two co-equal powers of the Lok Sabha and the Rajya Sabha.**

**Ans.** Two co-equal powers :—

- (a) In matters of ordinary legislation, both the Houses of Parliament have co-ordinate powers. A public bill may be introduced in either the Lok Sabha or the Rajya Sabha. No such bill can be placed before the assent of the President unless it is passed by both Houses in similar manner ; and
- (b) the elected members of the Lok Sabha and the Rajya Sabha participate in the election of the President. Both Houses also elect the Vice-President of India.

**Q. 7. Special powers of the Rajya Sabha.**

**Ans.** Under the Constitution of India, the Rajya Sabha has some special powers—

- (a) The Union Parliament can legislate on a subject in the State List in the national interest only when the Rajya Sabha passes a resolution to that effect supported by its two-third majority ; and
- (b) Parliament can make laws for the creation of one or more new All-India Services if the Rajya Sabha by its two-thirds majority has to pass a resolution to that effect.

**Q. 8. Two non-legislative powers of the Indian Parliament.**

**Ans.** (a) Parliament has a share in the formation of the Union Ministry. For, the Ministers are taken from both Houses of Parliament. They attend the Sessions of Parliament and take part in its deliberations ; and

(b) The elected members of the Lok Sabha and the Rajya Sabha participate in the election of the President. Again, both Houses of Parliament elect the Vice-President of India.

**Q. 9. Two privileges and immunities of the members of the Indian Parliament.**

**Ans.** In India, the members of the Parliament enjoy two important privileges and immunities—

(a) According to the Constitution of India, the members of Parliament enjoy freedom of speech and expression. No member can be taken to task anywhere out the four walls of the House (e.g. court of law) or cannot be discriminated against for expressing his/her views in the House and its committees;

(b) The members of Parliament also enjoy freedom from arrest. From this freedom, it is understood that no such member shall be arrested in a civil case 40 days and after the adjournment of the House and also when the House is in session.

**Q. 10. Relations between the Union Council of Ministers and the Indian Parliament.**

**Ans.** Constitutionally, the Lok Sabha dictates the Union Council of Ministers, for it remains in office as long as it enjoys the confidence of the House. It may pass a no confidence motion, reject a government Bill etc., and compel the ministry to resign. The Lok Sabha can call for explanation, move adjournment motion, appoint committee of investigation and control the Ministry financially. However, in reality, it is the Council of Ministers which controls the Lok Sabha for it is from the majority that the Union Ministry is formed. On account of party loyalty and discipline, the Lok Sabha is bound to support the Council of Ministers.

**Q. 11. Committee system in the Indian Parliament.**

**Ans.** In India, the committee system is old as Parliament itself. The Indian Parliament is too large and unwieldy to handle all proposed legislation coming before them. The committees save the time of Parliament to such an extent that without them the Parliament can never satisfy the needs of the modern electorate.

The Indian Parliament, therefore, subdivides itself into numerous committees each entrusted with one type of bills. The decision of a committee regarding any bill is in theory binding upon the House concerned. But, in practice, a bill rejected by a committee will never be enacted into law. In Indian Parliament, there are business advisory committee, select committee, committee on petitions, rules committee etc.

**Q. 12. Difference between public bill and private bill.**

**Ans.** In India, the Union Parliament enacts two kinds of bills—

(a) Public Bill, and

(b) Private Bill.

A public bill is one which deals with the matters of general concern. The object of a public bill is to alter the general law of the country. A bill altering the franchise or a bill relating to the question of nationalising industry is called a public bill. Public bills are of two types—

(i) Government Bill, and

(ii) Private Member's Bill.

On the otherhand, a private bill relates to the particular interest of any locality or the benefit of any person or group of persons. For example, a bill for acquiring land for construction of railways is a private bill.

**Q. 13. Law-making procedure in Indian Parliament.**

**Ans.** In the Indian Parliament, there are different stages for passing a bill—

(a) Introduction and First Reading,

(b) Committee Stage,

(c) Report Stage,

(d) Second Reading,

(e) Third Reading,

(f) Other House—Similar Procedure ; and

(g) The President's Assent.

**Q. 14. Public Accounts Committee.**

**Ans.** The Public Accounts Committee is the Parliament's



watch-dog and guardian of the people against official negligence or corruption. It consists of 22 members—15 and 7 member are elected by the Lok Sabha and the Rajya Sabha respectively. It investigates into cases of waste, corruption and inefficiency of the country's financial affairs. The committee does not limit itself to the formal security of the expenditure, but also examines its wisdom, faithfulness and economy. The committee then submits its report to the Lok Sabha so that the financial irregularities can be discussed by the Parliament.

### Government in the States

**Q. 1. Appointment and removal of the Governor of a State.**

**Ans.** Under the Constitution of India, there is a Governor for each State. The President of the Republic appoints the governor by warrant under his hand seal. He selects a person for governorship on the advice of the Union Council of Ministers. There is a practice to consult the Chief Minister of the State before appointing a Governor.

Constitutionally, the Governor holds office during the pleasure of the President, and the pleasure can be withdrawn at any time. That is, the Governor can be removed by the President at anytime who need not assign any reason for removal.

**Q. 2. Discretionary powers of the Governor of a State in India.**

**Ans.** The Constitution of India permits the Governor to exercise some discretionary powers without the advice of his Council of Ministers. And in the exercise of his discretionary powers, the Governor's decision is final and void.

The Governor can exercise his discretion—

- (a) in the appointment of the Chief Minister,
- (b) while reporting a breakdown of the Constitutional machinery in the State,
- (c) at the time of dissolving the Vidhan Sabha,
- (d) while acting as the agent of the President,

(e) when exercising the powers of the adjoining Union territory as an administrator ; and

(f) while exercising a special responsibility with respect, to law and order (e.g., Governor of Nagaland).

**Q. 3. Constitutional role of the Governor of a State.**

**Ans.** Under the Constitution of India, the Cabinet system of the Centre differs from that in the States. Thus the office of the Governor is not merely ornamental and ceremonial. He is an important functionary designed to play a vital role in the administration of the State. The Governor has to take decision in order to preserve, protect and defend the Constitution and laws of the State. His character, caliber and experience shape his role to a considerable extent. He should exercise his power in such a manner that a happy relationship between the Centre and the State is ensured. It is expected that he will stand up to the needs of a new situation with confidence.

**Q. 4. Relations between the Chief Minister and the Council of Ministers in an Indian State.**

**Ans.** The Chief Minister is the keystone of the arch of the State Council of Ministers. He presides over the Cabinet, controls the agenda, and maintains order. Nothing can be discussed without his approval, and his decision is final. He must ensure that the members of the Council of Minister do not criticise each other and work as a team. He supervises and controls the activities of the different departments of his political colleagues. If a Minister disagrees with the Chief Minister, he must resign. If the Chief Minister resigns, the entire Council of Ministers will fall.

**Q. 5. Role of the Chief Minister in an Indian State.**

**Ans.** In the parliamentary democratic system of an Indian State, the Chief Minister is a real functionary. He is, in fact, the chief administrator in an Indian State. The Chief Minister is the leader of the Council of Ministers, the State Legislature, his own party, and the people also. He enjoys an undisputed victory. He should have a close relationship with the Union government in

order to get financial aid for the development of his own State. Above all, the charisma, personality, and also the popularity of the Chief Minister determine his position. His role and position may be akin to the sun around which the Ministers revolve like the planets.

**Q. 6. Composition of the State Council of Ministers.**

**Ans.** According to the Constitution of India, there is a Council of Ministers with the Chief Minister at his head to aid and advice the Governor in the exercise of his functions. The Governor appoints the Chief Minister and, on his advice, the other Ministers. They hold office during the pleasure of the Governor. And the Ministers must be the members of the State Legislature. Usually there are three types of Ministers—

- (a) Cabinet Ministers,
- (b) State Ministers, and
- (c) Deputy Ministers.

The Chief Minister ensures that the most important portfolios go to the senior and influential colleagues, e.g., the Cabinet Ministers. The State and the Deputy Ministers assist the Cabinet Ministers in the discharge of their functions.

**Q. 7. Composition of the Legislative Assembly (Vidhan Sabha) in a State.**

**Ans.** The Legislative Assembly or the Vidhan Sabha is the lower or popular House of the State Legislature. It is the centre of power in a State. The total members of the Vidhan Sabha cannot be more than 500 or less than 60. The members of the Legislative Assembly are elected on direct, adult and universal suffrage (18 years of age or above) and by secret ballot. The Governor also nominates one representative of the Anglo-Indian community. The term of the Vidhan Sabha is five years unless dissolved earlier. The members of the Legislative Assembly elect a Speaker from amongst them to preside at and conduct of its business.

### Indian Judicial System The Supreme Court and the High Courts

**Q. 1. Appointment and Removal of a Judge of the Supreme Court.**

**Ans.** A Judge of the Supreme Court is appointed by the President of India in consultation of a panel of three senior Judges of the Supreme Court.

A Judge of a Supreme Court may be removed by the President of the Republic after an address presented to him by the Parliament on grounds of proved misbehaviour or incapacity. Such an address must be supported by a majority of total membership as well as by two-thirds of the members present and voting in each House of Parliament.

**Q. 2. Original Jurisdiction of the Supreme Court of India.**

**Ans.** Under the Constitution of India, the Supreme Court has extensive original jurisdiction. Here the Supreme Court entertains suits arising between—

- (a) the Government of India and one or more States,
- (b) the two or more States, and
- (c) the Union and any State on one side and other States on the other hand. These disputes can be heard or decided by other courts. Again, the Supreme Court in its original jurisdiction also entertains suits for the enforcement of fundamental rights brought by private individuals against, the Union Government or a State Government.

**Q. 3. Supreme Court's power of Special Leave to Appeal.**

**Ans.** Under Article 136 of the Constitution of India, the Supreme Court, at its discretion may grant special leave to appeal from the judgement, decree or order in any cause or matter passed by any court in the territory of India in the type of civil, criminal or revenue cases. But it will not apply in any order or sentence by any court constituted under any law relating to

Armed Forces. The Supreme Court has itself said that it will grant special leave to appeal only in cases where there has been gross miscarriage of justice.

**Q. 4. Advisory Jurisdiction of the Supreme Court of India.**

**Ans.** Article 143 of the Constitution of India confers upon the Supreme Court advisory jurisdiction. The President may obtain the opinion of the Supreme Court on a question of law or fact of public importance. The Supreme Court may report its opinion, after such hearing as it thinks fit. Two points need to be made about this—

(a) The Supreme Court is not bound to express any opinion on the questions submitted to it; and

(b) The advisory opinion of the Supreme Court is not binding on the President because it is not a judicial decision.

**Q. 5. Supreme Court as the protector of fundamental rights of citizens.**

**Ans.** The Supreme Court of India is the guardian and protector of fundamental rights. Any citizen whose fundamental rights have been violated may move the Supreme Court for the enforcement of the rights. And the Supreme Court has power to issue writs in the nature of *habeas corpus*, *mandamus*, *prohibition*, *certiorari*, and *quo warrant* for safeguarding the rights of citizens. Again, the Supreme Court may declare a law passed by the Union Parliament or the State Legislature null and void if it encroaches upon the fundamental rights guaranteed to the citizens by the Constitution.

**Q. 6. Supreme Court as the guardian of the constitution of India.**

**Ans.** Under the federal Constitution of India, it is for the Supreme Court to declare what the provisions of our written Constitution mean. Thus the Supreme Court can examine the validity of any law of the Legislature (Union or State) or of the executive order (President or Governor). If any law or order violates the provisions of the Constitution, the Supreme Court can declare it invalid. So, the Indian Supreme Court is the

interpreter and guardian of the Constitution. However, the Supreme Court under the colour of interpretation cannot alter or amend the law.

**Q. 7. Appointment and Removal of a Judge of the High Court.**

**Ans.** In an Indian State, a Judge of the High Court is appointed by the President of the Republic in consultation with the Chief Justice of the Supreme Court and the Governor of the State concerned.

A Judge of the High Court can be removed on grounds of proved misbehaviour or incapacity by the President of India on an address of Parliament supported by the majority of members as well as two-thirds of the members present and voting in the Lok Sabha and the Rajya Sabha individually.

**Q. 8. Writ Jurisdiction of the High Court of the State.**

**Ans.** The High Court has the power to issue writs to a person or an official. The writs comprise the writs of *habeas corpus*, *mandamus*, *prohibition*, *certiorari*, and *quo warrant*. Under Article 226, the writs are issued to protect the fundamental rights guaranteed to the citizens by the Constitution. The High Court can issue writs for other purposes also—the imposition of a sales tax in contravention of the Constitution. Again, the High Court can declare a law of Parliament or the State Legislature null and void if it encroaches upon the fundamental rights.

**Q. 9. High Court's control over the subordinate courts.**

**Ans.** The High Court enjoys the power of superintendence and control over the subordinate courts within its jurisdiction. In this regard, the High Court exercises the following powers—

(a) detailed report on the working of the subordinate courts can be called for,

(b) rules can be framed for regulating the proceedings of the subordinate courts,



(c) the appointment, posting, and promotion of the District and Sessions Judges are to be made by the Governor in consultation with the High Court.

(d) the High Court can prescribe form in which book entries and accounts shall be kept by the subordinate courts.

### Miscellaneous

#### Q. 1. Composition of the Election Commission in India.

Ans. In India, the Election Commission at present consists of the Chief Election Commissioner and two other Election Commissioners. They are appointed by the President of the Republic. Further, they hold office for six (6) years, or until they attain the age of sixty-five (65) years whichever is earlier. The Chief Election Commissioner or an Election Commissioner can be removed by the President on a report made by the Parliament as supported by two-thirds majority in the Lok Sabha and the Rajya Sabha voting separately. The Chief Election Commissioner and the other two Election Commissioners have equal powers and status in all respects.

#### Q. 2. Major functions of the Election Commission in India.

Ans. Four major functions are to—

(a) delimit constituencies for elections to the Parliament and the State Legislatures, and also to allot a number of seats to them ;

(b) conduct and supervise the elections and bye-elections to the Parliament and the State Legislatures, and also to the President and the Vice-President of the Republic;

(c) determine criteria for recognising political parties, and also to prepare a list of "free symbols" for allotment to independent candidates; and

(d) prepare guidelines for a code of conduct for political parties, and candidates, and voters.

#### Q. 3. The role of Caste in Indian politics.

Ans. Caste is a significant element in Indian society under the

impact of modern politics. Caste has been politicised but in the process it has provided to Indian politics the processes and symbols of political articulation. So, it is not that politics uses caste, at the same time caste also uses politics. Indeed it has become one of the means by which the Indian mass has been attached to the process of democratic politics. It has been said that caste is the most important political party in India. And appeals for political support on the basis of caste have definitely increased over the years.

#### Q. 4. Roots of Regionalism in India.

Ans. Roots of regionalism :—

(a) History has contributed to the origin of regionalism doubly, for example, the origin of Shiva Sena is a proof positive contribution, and of D.M.K. a negative one ;

(b) caste has contributed significantly to the growth and development of regionalism. Domination of a single caste at a place leads to violent form of regionalism;

(c) economic root also plays a vital role in the growth of regionalism. There has been an unequal economic development in India. So, the feelings of regionalism originate among the people belonging to the backward areas and they demand States; and

(d) the weakening of the Central authority has helped the regional leaders in enhancing their own authority and power by arousing regional sentiments among the people.

#### Q. 5. Tribal politics in India.

Ans. In Indian Republic, the tribalism has been a significant decisive factor in our socio-political fields. Modernisation has sharpened inherited social identities.

In free India, three important changes have taken place in our social and political sects—extension of adult franchise, legal outlawing of untouchability, great emphasis on equal protection of laws. And these changes have had substantial effect on the rural tribesmen. Thus tribe is a significant element in Indian society

under the impact of modern politics. The combination of the tribe and the democratic secular process has changed the nature of the political culture in India, imparting to its existing plurality a political connotation. At present, the tribe has been playing an increasingly important role in all political activities— elections, political appointments, party formation etc. Again, the tribe groupings get a chance to assert their identity and to strive for political gain.

## POLITICAL SCIENCE-GENERAL THIRD PAPER-2015

**FULL MARKS -100**

*(Only for General Candidates)*

**Answer Question No. 1 and any four from the rest**

1. Write short notes on any four (each within 100 words)

5+4

- (a) Right against Exploitation.
- (b) Difference between Fundamental Rights and Directive Principles of State Policies.
- (c) Article 249 of the Indian Constitution.
- (d) Discretionary powers of the Governor.
- (e) Public Accounts Committee.
- (f) Original Jurisdiction of the Supreme Court.
- (g) Meaning of Regionalism.
- (h) 'Chipko' Movement.

2. India is "Sovereign, Socialist, Secular, Democratic Republic" Explain the statement. 20

3. Analyse the nature of the Right to Freedom of Religion as guaranteed in the Constitution of India. 20

4. Discuss the powers and position of the President of India. 12+8

5. Discuss the role of High Court in the Indian Judicial System. 20

6. Analyse the powers and position of the Chief Minister of an Indian State. 12+8

7. Discuss the procedures for the amendment of the Indian Constitution. 20

8. Discuss the influence of religion in the contemporary Indian Politics. 20

9. Analyse the nature of women's movement in post-independence India. 20

**POLITICAL SCIENCE-GENERAL  
THIRD PAPER-2015  
FULL MARKS -100**

*(Other than General Candidates)*

**Answer Question No. 1 and any four from the rest**

1. Write short notes on *any four* (each within 100 words)

5×4

- (a) India as 'Secular' state
- (b) Article 14 of the Indian Constitution
- (c) Public Accounts Committee
- (d) Article 249 of the Indian Constitution
- (e) Impeachment of Indian President
- (f) Preventive Detention Act
- (g) Original jurisdiction of the Supreme Court of India.
- (h) Composition of the Election Commission of India.

2. Discuss the nature of the Right to Freedom as guaranteed in the constitution of India. 20

3. Explain the financial relations between the Centre and states in India. 20

4. Discuss the powers and position of the Prime Minister of India. 15+5

5. Discuss the relations between Lok Sabha and Rajya Sabha in India. 20

6. Discuss the composition and functions of state Legislatures. 8+12

7. Present your views on judicial activism in India with suitable examples. 20

8. Discuss the procedures for the amendment of the Indian Constitution. 20

9. Discuss the ideology and programmes of any one National Political Party of India. 20

**POLITICAL SCIENCE (GENERAL)  
THIRD PAPER—2014  
(Only for General Candidates)  
Full Marks—100**

**Answer Question No. 1 and any four from the rest**

1. Write short notes on *any four* (each within 100 words) : 5×4

(a) Significance of the Preamble to the Indian Constitution.

(b) Article 19 of the Indian Constitution

(c) 'Veto power' of the President

(d) Speaker of the Lok Sabha

(e) Concurrent List

(f) Article 356 of the Indian Constitution

(g) Main functions of the Election Commission

(h) Basic features of women's movement in India.

2. Discuss the Right to Equality in the Indian Constitution. 20

3. Examine the nature of Indian federation. 20

4. Analyse the powers and functions of the Prime Minister of India. 20

5. Explain the powers and position of the Governor of an Indian state. 20

6. Discuss the composition and functions of the Supreme Court of India. 20

7. Examine the ideology of a national political party in India. 20

8. Identify the reasons for the emergence of regionalism in contemporary India. 20

9. Analyse the role of caste in Indian politics. 20



**POLITICAL SCIENCE (GENERAL)**  
**THIRD PAPER—2017**

(Other than General Candidates)

**Full Marks—100**

**Answer Question No. 1 and any four from the rest**

1. Write short notes on **any four** (each within 100 words) : 5×4

- (a) Article 19 of the Indian Constitution
- (b) Any four Fundamental Duties of the Indian citizens
- (c) Estimates Committee
- (d) Discretionary powers of the Governor of an Indian state
- (e) Removal of High Court judges
- (f) Any two procedures of amending the Constitution
- (g) Definition of a national political party
- (h) Chipko movement.

2. Explain the significance of the Preamble to the Constitution of India. 20

3. Explain the Centre-State administrative relations in India. 20

4. Discuss the powers and position of the President of India. 20

5. Discuss the composition and functions of the Lok Sabha. 20

6. Analyse the powers and position of the Chief Minister of an Indian State. 20

7. Describe briefly the role of Supreme Court in the constitutional system of India. 20

8. Discuss the composition and functions of the Election Commission of India. 20

9. Write a note on women's participation in post-independence Indian politics. 20